

[STAFF WORKING DRAFT]

JULY 6, 2010

111TH CONGRESS
2^D SESSION

S. _____

To provide financial incentives and a regulatory framework to facilitate the development and early deployment of carbon capture and sequestration technologies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY —, 2010

Mr. ROCKEFELLER (for himself and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide financial incentives and a regulatory framework to facilitate the development and early deployment of carbon capture and sequestration technologies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Carbon Capture and
3 Sequestration Deployment Act of 2010”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

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TITLE III—62-GW EARLY ADOPTER PROGRAM; SEQUESTRATION
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- Sec. 505. Responsibility for payment of claims.
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1 **TITLE I—CARBON CAPTURE AND**
2 **SEQUESTRATION INNOVA-**
3 **TION PROGRAM**

4 **SEC. 101. PARTNERSHIPS FOR CARBON CAPTURE AND SE-**
5 **QUESTRATION.**

6 (a) ESTABLISHMENT OF PROGRAM.—

7 (1) IN GENERAL.—Within 12 months after the
8 date of enactment of this Act, the Secretary of En-
9 ergy shall establish a cooperative industry-govern-
10 ment research and development program, in addition
11 to and in cooperation with the Office of Fossil Ener-
12 gy’s carbon capture and sequestration research and
13 development program, to demonstrate novel and in-
14 novative technologies—

15 (A) to capture or prevent carbon dioxide
16 emissions from carbon-based fuels;

17 (B) to enable the beneficial use of carbon
18 dioxide; or

19 (C) to enable the long-term storage of car-
20 bon dioxide.

21 (2) PARTICIPATION OF NATIONAL LABORA-
22 TORIES AND UNIVERSITIES.—The program shall in-

1 clude the participation of the National Energy Tech-
2 nology Laboratory and may include the participation
3 of other National Laboratories, universities, and
4 other appropriate entities.

5 (b) COST SHARING.—For purposes of developing and
6 demonstrating the technologies or approaches referred to
7 in subsection (a), the Secretary shall provide at least 80
8 percent of the cost of the development projects and the
9 industry participant shall provide not more than 20 per-
10 cent of such cost.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary to carry
13 out this section—

14 (1) \$100,000,000 for each of the fiscal years
15 2011 through 2015;

16 (2) \$50,000,000 for each of the fiscal years
17 2016 through 2020; and

18 (3) \$20,000,000 for each of the fiscal years
19 2021 through 2025.

20 **SEC. 102. ANNUAL DEPARTMENT OF ENERGY ASSESSMENT.**

21 (a) IN GENERAL.—

22 (1) DEPARTMENT OF ENERGY REPORT.—With-
23 in 1 year after the date of enactment of this Act and
24 annually thereafter until the Secretary of Energy de-
25 termines that technology preventing the emission of,

1 capturing, transporting, permanently storing or se-
2 questering, and putting to beneficial use carbon di-
3 oxide is available to the commercial marketplace, the
4 Department of Energy shall conduct an assessment
5 in accordance with subsection (b) of this section of
6 the existing Federal programs supporting such tech-
7 nology and report to the Secretary and the appro-
8 priate authorizing and appropriating committees of
9 the Congress on the results of the assessment.

10 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
11 VIEW.—Within 1 year after the first report is pro-
12 vided to the Secretary and to the appropriate au-
13 thORIZING and appropriating committees of the Con-
14 gress under paragraph (1) and subsequently as
15 needed until technology preventing the emission of,
16 capturing, transporting, permanently storing or se-
17 questering, and putting to beneficial use carbon di-
18 oxide is available to the commercial marketplace, the
19 Comptroller General shall conduct a review of the
20 report described in paragraph (1) in accordance with
21 subsection (c) of this section.

22 (b) DEPARTMENT OF ENERGY REPORT REQUIRE-
23 MENTS.—The Department of Energy shall include in the
24 report—

1 (1) a detailed description of the existing pro-
2 grams, including each major program area, that con-
3 ducts or supports research, development, demonstra-
4 tion, and deployment of technology—

5 (A) to prevent the emission of carbon diox-
6 ide or capture of carbon dioxide from sources,
7 including fossil fuel-based power plants;

8 (B) to transport carbon dioxide;

9 (C) to store or sequester captured carbon
10 dioxide permanently; or

11 (D) to put captured carbon dioxide to ben-
12 eficial use;

13 (2) an assessment, based upon government lab-
14 oratory research experience, available industry re-
15 search experience, and such other data and informa-
16 tion as the Department of Energy deems useful and
17 appropriate, to determine whether each major pro-
18 gram area and principal projects within these areas
19 are designed to, and will, advance fundamental
20 knowledge or achieve significant technical advance-
21 ment and materially improve the technology base to
22 effectively address the prevention of carbon dioxide
23 emissions or capture of carbon dioxide or the trans-
24 port, permanent storage, or beneficial use of cap-
25 tured carbon dioxide; and

1 (3) an assessment of the Department of Ener-
2 gy's estimated time frame and costs necessary to
3 reasonably conclude that technology will be available
4 to the commercial marketplace.

5 (c) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW
6 REQUIREMENTS.—The Government Accountability Office
7 shall include in its review—

8 (1) an analysis of the Department of Energy's
9 estimated time frames and costs as reported pursu-
10 ant to subsection (b)(3) of this section;

11 (2) any recommendations that the Comptroller
12 General deems appropriate and useful to improve
13 the likelihood of achieving technological advance-
14 ments to mitigate carbon dioxide emissions or to ex-
15 pedite the availability of carbon capture and seques-
16 tration technology for the commercial marketplace;

17 (3) an assessment of any legal or regulatory im-
18 pediments that have arisen in relation to the deploy-
19 ment of carbon capture and storage technology, in-
20 cluding any delays in the permitting of such tech-
21 nology or the construction or operation of any such
22 facility by any Federal agency or department; and

23 (4) any other analyses the Government Ac-
24 countability Office deems necessary or appropriate.

1 (d) BUDGET REQUEST REPORT.—Beginning with the
2 budget request for fiscal year 2012 and for each suc-
3 ceeding fiscal year through 2026, the President shall in-
4 clude in his budget request for the Department of Ener-
5 gy’s Fossil Energy Program a report that—

6 (1) assesses the Department’s progress in im-
7 plementing the recommendations of the Government
8 Accountability Office and compares the estimated
9 costs of completing implementation of these rec-
10 ommendations to the requested budget levels; and

11 (2) an assessment of the progress made in the
12 preceding fiscal year toward achieving the goals of
13 the program for which funding is requested.

14 **TITLE II—CARBON CAPTURE**
15 **AND SEQUESTRATION**
16 **PROJECTS**

17 **SUBTITLE A—CARBON CAPTURE**
18 **AND SEQUESTRATION EARLY**
19 **AND EFFECTIVE DEPLOY-**
20 **MENT FUNDING ACT OF 2010**

21 **SECTION 201. SHORT TITLE.**

22 (a) SHORT TITLE.—This subtitle may be cited as the
23 “Carbon Capture and Sequestration Early and Effective
24 Deployment Fund Act of 2010” or the “CC SEED FUND
25 ACT”.

1 **SEC. 202. DEFINITIONS.**

2 (a) IN GENERAL.—In this subtitle:

3 (1) CARBON CAPTURE.—The term “carbon cap-
4 ture” has the meaning given the term in section
5 963(a) of the Energy Policy Act of 2005 (42 U.S.C.
6 16293(a)).

7 (2) CARBON SEQUESTRATION.—The term “car-
8 bon sequestration” has the meaning given the term
9 in section 963(a) of the Energy Policy Act of 2005
10 (42 U.S.C. 16293(a)).

11 (3) COUNCIL.—The term “Council” means the
12 Carbon Capture and Sequestration Program Part-
13 nership Council established under section 204(a).

14 (4) ELECTRIC CONSUMER.—The term “electric
15 consumer” has the meaning given that term in sec-
16 tion 3 of the Public Utility Regulatory Policies Act
17 of 1978 (16 U.S.C. 2602).

18 (5) ELECTRIC UTILITY.—The term “electric
19 utility” has the meaning given the term in section
20 3 of the Federal Power Act (16 U.S.C. 796).

21 (6) FOSSIL FUEL-BASED ELECTRICITY.—The
22 term “fossil fuel-based electricity” means electricity
23 that is produced, in whole or in part, from the com-
24 bustion of a fossil fuel.

1 (7) FOSSIL FUEL.—The term “fossil fuel”
2 means coal, petroleum, or natural gas, or any deriv-
3 ative of coal, petroleum, or natural gas.

4 (8) INSTITUTION OF HIGHER EDUCATION.—The
5 term “institution of higher education” has the
6 meaning given the term in section 101(a) of the
7 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

8 (9) NATIONAL LABORATORY.—The term “Na-
9 tional Laboratory” has the meaning given the term
10 in section 2 of the Energy Policy Act of 2005 (42
11 U.S.C. 15801).

12 (10) PROGRAM DIRECTOR.—The term “Pro-
13 gram Director” means the Program Director of the
14 special funding program appointed under section
15 204(g).

16 (11) SECRETARY.—The term “Secretary”
17 means the Secretary of Energy.

18 (12) SPECIAL FUNDING PROGRAM.—The term
19 “special funding program” means the special fund-
20 ing program for development and deployment of car-
21 bon capture, sequestration, and conversion tech-
22 nologies established in accordance with section 203.

23 (13) STATE REGULATORY AUTHORITY.—The
24 term “State regulatory authority” has the meaning

1 given the term in section 3 of the Public Utility Reg-
2 ulatory Policies Act of 1978 (16 U.S.C. 2602).

3 (14) UNITED STATES.—The term “United
4 States” means the States of the United States, the
5 District of Columbia, and the territories and posses-
6 sions of the United States, including the territorial
7 waters of the United States and the exclusive eco-
8 nomic zone.

9 (b) MODIFICATION OF DEFINITIONS INCORPORATED
10 BY REFERENCE.—Section 963 of the Energy Policy Act
11 of 2005 (42 U.S.C. 16293) is amended—

12 (1) by redesignating subsections (a) through (d)
13 as subsections (b) through (e), respectively;

14 (2) by inserting before subsection (b) (as so re-
15 designated) the following:

16 “(a) DEFINITIONS.—In this section:

17 “(1) CARBON CAPTURE.—The term ‘carbon
18 capture’ means the process of capturing anthropo-
19 genic carbon dioxide from a stationary source or the
20 ambient air.

21 “(2) CARBON SEQUESTRATION.—The term ‘car-
22 bon sequestration’ means the act of storing carbon
23 dioxide through physical, chemical, or biological
24 processes that can prevent the carbon dioxide from
25 reaching the atmosphere.”;

1 (3) in subsection (b) (as so redesignated), by
2 striking “In General” and inserting “Program”; and
3 (4) in subsection (c) (as so redesignated), by
4 striking “subsection (a)” and inserting “subsection
5 (b)”.

6 **SEC. 203. SPECIAL FUNDING PROGRAM FOR DEVELOPMENT**
7 **AND DEPLOYMENT OF CARBON CAPTURE, SE-**
8 **QUESTRATION, AND CONVERSION TECH-**
9 **NOLOGIES.**

10 (a) VIEWS OF STATE REGULATORY AUTHORITIES.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of enactment of this Act, a State reg-
13 ulatory authority shall notify the Secretary in writ-
14 ing of the views of the State regulatory authority on
15 the creation of the special funding program.

16 (2) NOTICE OF TIMELINE.—As soon as prac-
17 ticable, but no later than 30 days after the date of
18 enactment of this Act, the Secretary shall notify
19 each State regulatory authority of the need to sub-
20 mit its views to the Secretary under paragraph (1)
21 within 180 days after the date of enactment of this
22 Act.

23 (b) ESTABLISHMENT.—The Secretary shall establish
24 the special funding program within one year after the date
25 of enactment of this Act unless the State regulatory au-

1 thorities of at least 22 States (treating the District of Co-
2 lumbia and Puerto Rico as States for such purpose) sub-
3 mit written notices of disapproval by the deadline estab-
4 lished under subsection (a).

5 (c) TERMINATION.—

6 (1) ASSESSMENTS.—The authority of the Sec-
7 retary to collect assessments shall expire on the date
8 that is 10 years after the date of the establishment
9 of the special funding program.

10 (2) AWARDS.—The authority of the Secretary
11 to make funding awards under this subtitle shall ex-
12 pire on the date that is 15 years after the date of
13 the establishment of the special funding program.

14 (d) ANNUAL REPORT.—Not later than February 1 of
15 each year, the Secretary shall publish and submit to Con-
16 gress and each State regulatory authority a report that—

17 (1) includes an identification and description of
18 all programs and projects undertaken under the spe-
19 cial funding program during the previous fiscal year;
20 and

21 (2) describes the allocation or planned alloca-
22 tion of resources of the special funding program for
23 each program and project in the current and subse-
24 quent fiscal year.

1 **SEC. 204. CARBON CAPTURE AND SEQUESTRATION PRO-**
2 **GRAM PARTNERSHIP COUNCIL.**

3 (a) ESTABLISHMENT.—The Secretary shall establish,
4 and appoint the members of, a Carbon Capture and Se-
5 questration Program Partnership Council to carry out du-
6 ties described in subsection (f).

7 (b) VOTING MEMBERSHIP.—

8 (1) TOTAL VOTING MEMBERSHIP; QUORUM.—
9 The Council shall be composed of not more than 15
10 voting members. A majority of the voting members
11 shall constitute a quorum for official action of the
12 Council.

13 (2) MINIMUM REPRESENTATION.—The voting
14 membership of the Council shall include at least 1
15 representative of each of the following:

16 (A) Investor-owned utilities.

17 (B) Utilities owned by a State or unit of
18 local government.

19 (C) Rural electric cooperatives.

20 (D) Fossil fuel producers.

21 (E) Nonprofit organizations.

22 (F) Independent generators or wholesale
23 power providers.

24 (G) Consumer groups.

25 (H) Employee organizations (as defined in
26 section 3(4) of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C.
2 1002(4)).

3 (3) REPRESENTATION OF ELECTRIC UTILI-
4 TIES.—A majority of the voting membership of the
5 Council shall be representatives of electric utilities
6 selling fossil fuel-based electricity to electric con-
7 sumers subject to assessment under section 206.

8 (4) NOMINATIONS.—The Secretary shall ap-
9 point the Council members representing entities de-
10 scribed in subparagraphs (A), (B), and (C) of para-
11 graph (2) from slates of nominees, containing at
12 least 2 candidates for each vacancy to be filled, sub-
13 mitted by—

14 (A) the Edison Electric Institute, on behalf
15 of investor-owned utilities;

16 (B) the American Public Power Associa-
17 tion, on behalf of utilities owned by a State
18 agency or unit of local government;

19 (C) the National Rural Electric Coopera-
20 tive Association, on behalf of rural electric co-
21 operatives; and

22 (D) the Electric Power Supply Association,
23 on behalf of independent generators or whole-
24 sale power providers.

1 (5) RECUSAL.—A voting member of the Council
2 may not participate in the review or approval of an
3 application from an entity with which the voting
4 member is affiliated.

5 (c) NONVOTING MEMBERSHIP.—The Secretary shall
6 appoint to the Council as nonvoting members—

7 (1) the Under Secretary for Science;

8 (2) the Assistant Secretary with responsibility
9 for research and development of fossil fuels;

10 (3) 3 representatives of State regulatory au-
11 thorities, chosen to represent each different trans-
12 mission interconnection, submitted by the National
13 Association of Regulatory Utility Commissioners;
14 and

15 (4) such additional officers and employees of
16 the Federal Government as the Secretary determines
17 are necessary for the Council to carry out the func-
18 tions of the Council effectively.

19 (d) TERMS.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this paragraph, a voting member of the
22 Council—

23 (A) shall serve a term of 4 years; and

24 (B) may serve not more than 2 full con-
25 secutive terms.

1 (2) UNEXPIRED TERMS.—A member who fills
2 the unexpired term of a voting member may serve
3 not more than a total of 8 consecutive years.

4 (3) REAPPOINTMENT OF FORMER VOTING MEM-
5 BERS.—A former voting member of the Council may
6 be reappointed if the member has not been a mem-
7 ber of the Council for a period of at least 2 years.

8 (4) INITIAL APPOINTMENT.—The Secretary
9 shall make initial appointments of voting members
10 of the Council for terms of 1, 2, 3, and 4 years,
11 staggered to provide for the selection of 3 members
12 each year, as determined by the Secretary.

13 (5) VACANCIES.—A vacancy on the Council—

14 (A) shall not affect the powers of the
15 Council; and

16 (B) shall be filled in the same manner as
17 the original appointment was made.

18 (e) PERSONNEL MATTERS.—

19 (1) COMPENSATION.—

20 (A) NON-FEDERAL EMPLOYEES.—A mem-
21 ber of the Council who is not an officer or em-
22 ployee of the Federal Government may be com-
23 pensated at a rate equal to the daily equivalent
24 of the annual rate of basic pay prescribed for
25 level IV of the Executive Schedule under section

1 5315 of title 5, United States Code, for each
2 day (including travel time) during which the
3 member is engaged in the performance of the
4 duties of the Council.

5 (B) FEDERAL EMPLOYEES.—A member of
6 the Council who is an officer or employee of the
7 Federal Government shall serve without com-
8 pensation in addition to the compensation re-
9 ceived for the services of the member as an offi-
10 cer or employee of the Federal Government.

11 (2) TRAVEL EXPENSES.—A member of the
12 Council shall be allowed travel expenses, including
13 per diem in lieu of subsistence, at rates authorized
14 for an employee of an agency under subchapter I of
15 chapter 57 of title 5, United States Code, while
16 away from the home or regular place of business of
17 the member in the performance of the duties of the
18 Council.

19 (3) CHAIR.—The Secretary shall appoint a vot-
20 ing member of the Council to serve as the Chair of
21 the Council.

22 (4) EXECUTIVE SECRETARY.—The Secretary
23 shall appoint an Executive Secretary in the Depart-
24 ment of Energy to assist the Council in the conduct
25 of the duties of the Council.

1 (f) COUNCIL DUTIES.—The Council shall—

2 (1) advise, assist, consult with, and make rec-
3 ommendations to the Secretary and the Program Di-
4 rector on matters related to the activities carried out
5 by and through the special funding program;

6 (2)(A) review applications for grants, contracts,
7 cooperative agreements, and other transactions for
8 which the approval of the Council is required under
9 section 5(b); and

10 (B) vote on whether to recommend for approval
11 the applications;

12 (3) review and make recommendations on any
13 intellectual property policies required to advance the
14 purposes of the special funding program and to en-
15 courage individual ingenuity and innovation, and en-
16 sure that inventors, whose contributions to the devel-
17 opment of clean coal technology are not subject to
18 the protections afforded by section 14 of the Steven-
19 son-Wydler Technology Innovation Act of 1980 (15
20 U.S.C. 3710c), are provided protection of their intel-
21 lectual property rights that is not less than that af-
22 farded to inventors provided protection under section
23 14 of that Act;

24 (4) collect information on projects being carried
25 out by other programs to advance the development

1 and deployment of technologies for carbon capture,
2 sequestration, and conversion;

3 (5)(A) approve an annual overall plan for the
4 special funding program and projects to be carried
5 out under the special funding program; and

6 (B) submit to Congress, the Secretary, and
7 each State regulatory authority a copy of the plan;
8 and

9 (6) meet at least 3 times each year, at the call
10 of the Chair or on the request of the Program Direc-
11 tor, at a location subject to the approval of the Pro-
12 gram Director.

13 (g) PROGRAM DIRECTOR AND SENIOR PROGRAM
14 MANAGERS.—

15 (1) APPOINTMENT.—The Secretary, in con-
16 sultation with the Council, shall appoint a Program
17 Director for the special funding program, who
18 shall—

19 (A) have a background and qualifications
20 especially appropriate to managing the special
21 funding program; and

22 (B) report directly to the Secretary.

23 (2) COMPENSATION.—The rate of pay for the
24 Program Director shall not exceed the rate payable

1 for level V of the Executive Schedule under section
2 5316 of title 5, United States Code.

3 (3) SENIOR PROGRAM MANAGERS.—

4 (A) IN GENERAL.—Notwithstanding sec-
5 tions 3304 and 3309 through 3318 of title 5,
6 United States Code, the Program Director may
7 recruit and directly appoint up to 5 highly
8 qualified scientists, engineers, or critical tech-
9 nical personnel into the competitive service, to
10 help manage the special funding program.

11 (B) EXCEPTION.—The authority granted
12 by subparagraph (A) shall not apply to posi-
13 tions in the excepted service or the Senior Exec-
14 utive Service.

15 (C) REQUIREMENTS.—In exercising the
16 authority granted by subparagraph (A), the
17 Secretary shall ensure that any action taken by
18 the Secretary—

19 (i) is consistent with the merit prin-
20 ciples of section 2301 of title 5, United
21 States Code; and

22 (ii) complies with the public notice re-
23 quirements of section 3327 of title 5,
24 United States Code.

25 (h) TECHNICAL ADVISORY COMMITTEE.—

1 (1) IN GENERAL.—The Secretary, acting
2 through the Program Director, and in consultation
3 with the Council, shall appoint a technical advisory
4 committee to provide independent scientific review of
5 applications for grants, contracts, cooperative agree-
6 ments, and other transactions to be funded under
7 the special funding program.

8 (2) MEMBERSHIP.—The technical advisory
9 committee shall be composed of not less than 7
10 members appointed from among—

11 (A) institutions of higher education;

12 (B) National Laboratories;

13 (C) independent research institutions;

14 (D) the National Energy Technology Lab-
15 oratory; and

16 (E) other qualified institutions;

17 (3) CONFLICTS OF INTEREST.—Members of the
18 technical advisory committee may not be affiliated
19 with, or employed by, any organization represented
20 by voting members of the Council.

21 (4) DUTIES.—

22 (A) PEER REVIEW.—The technical advi-
23 sory committee shall provide independent as-
24 sessments and technical evaluations, and make
25 recommendations to the Council, on all applica-

1 tions for funding under the special funding pro-
2 gram.

3 (B) PROGRAMMATIC ASSESSMENTS.—

4 (i) IN GENERAL.—The technical advi-
5 sory committee may provide an inde-
6 pendent review of other technical matters
7 relating to the special funding program, in-
8 cluding—

9 (I) approaches to prioritizing
10 technologies;

11 (II) appropriateness of engineer-
12 ing techniques;

13 (III) monitoring and verification
14 technologies for sequestration;

15 (IV) geological site selection; and

16 (V) cost control measures for
17 projects.

18 (ii) RECOMMENDATIONS.—The tech-
19 nical advisory committee may make rec-
20 ommendations to the Secretary concerning
21 the types of investments, scientific re-
22 search, or engineering practices that would
23 best further the purposes of this subtitle.

24 (C) PUBLIC AVAILABILITY.—Except for in-
25 formation exempt from disclosure under para-

1 graphs (4) and (6) of section 552(b) of title 5,
2 United States Code, all reports and evaluations
3 made by the technical advisory committee shall
4 be made available to the public when the re-
5 ports and evaluations are received by the Coun-
6 cil.

7 (5) TRAVEL EXPENSES.—A member of the
8 technical advisory committee shall be allowed travel
9 expenses, including per diem in lieu of subsistence,
10 at rates authorized for an employee of an agency
11 under subchapter I of chapter 57 of title 5, United
12 States Code, while away from the home or regular
13 place of business of the member in the performance
14 of the duties of the committee.

15 **SEC. 205. FUNCTIONS AND ADMINISTRATION OF THE SPE-**
16 **CIAL FUNDING PROGRAM.**

17 (a) IN GENERAL.—The special funding program shall
18 support projects to accelerate the commercial availability
19 of carbon capture and sequestration technologies and
20 methods, including technologies that capture and seques-
21 ter, or capture and convert, carbon dioxide. In making
22 awards under the program, the Program Director shall
23 give priority to projects that include cost sharing.

24 (b) PROJECT APPROVAL.—The Program Director
25 shall make awards for grants, contracts, cooperative

1 agreements, and other transactions under this subtitle
2 only if the award is—

3 (1) recommended to the Council by the tech-
4 nical advisory committee established under section
5 204(h), after scientific and technical peer review;

6 (2) approved by the voting members of the
7 Council;

8 (3) for a project to be carried out in the United
9 States; and

10 (4) prioritized in regions of the country with a
11 high probability of carbon capture and sequestration
12 development and deployment potential.

13 (c) SPECIFIC PURPOSES.—In making awards, the
14 Program Director shall ensure, to the maximum extent
15 practicable, that grants, contracts, cooperative agree-
16 ments, and other transactions funded under the special
17 funding program support commercial-scale demonstra-
18 tions of carbon capture and sequestration technology
19 projects that—

20 (1) are capable of advancing the technologies to
21 commercial readiness;

22 (2) encompass each of the different coal types
23 and other fossil fuel varieties;

24 (3) are geographically diverse;

25 (4) involve diverse sequestration media;

1 (5) employ capture and sequestration, or cap-
2 ture and conversion, technologies potentially suitable
3 for new or retrofit applications; and

4 (6) result in a capture of emissions from the
5 generation of at least 10 gigawatts.

6 (d) ELIGIBLE ENTITIES.—Entities eligible for fund-
7 ing under this subtitle include—

8 (1) electric utilities selling fossil fuel-based elec-
9 tricity;

10 (2) institutions of higher education;

11 (3) National Laboratories;

12 (4) Federal research agencies;

13 (5) State research agencies;

14 (6) nonprofit organizations; and

15 (7) consortiums of 2 or more entities described
16 in paragraphs (1) through (6).

17 (e) PURCHASE OF CARBON DIOXIDE.—A grant, con-
18 tract, cooperative agreement, or other transaction under
19 this subtitle may be used—

20 (1) in the case of established projects that are
21 sequestering carbon dioxide emissions, to purchase
22 carbon dioxide if necessary to conduct tests of car-
23 bon sequestration sites; or

24 (2) for other purposes consistent with this sub-
25 title.

1 (f) ORGANIZATION OF FUNDING INTO TRANCHES.—

2 (1) IN GENERAL.—The Program Director, with
3 the approval of the Council and the Secretary, may
4 divide available funds into a series of tranches, each
5 supporting the deployment of a specified quantity of
6 electric generating capacity using carbon capture, se-
7 questration, or conversion technologies.

8 (2) FORM OF FUNDING.—If the Program Direc-
9 tor, the Council, and the Secretary agree to dis-
10 tribute funds by tranche under this subsection, the
11 Program Director shall distribute funds to eligible
12 projects through grants, contracts, cooperative
13 agreements, and other transactions under this sub-
14 title in a manner that—

15 (A) provides higher funding for projects
16 that are designed to achieve higher levels of
17 capture and sequestration or capture and con-
18 version;

19 (B) takes into account the projected cost
20 of electricity to capture carbon dioxide emis-
21 sions from the project;

22 (C) decreases the funding available for
23 projects in successive tranches; and

24 (D) defrays the reasonable incremental
25 capital and operating costs associated with im-

1 plementation of the carbon capture and seques-
2 tration or carbon capture and conversion tech-
3 nologies.

4 (g) WAGE RATE ASSURANCES.—

5 (1) IN GENERAL.—The Program Director shall
6 require recipients of awards under this subtitle to
7 provide assurances that all laborers and mechanics
8 employed by contractors and subcontractors in the
9 construction, repair, or alteration of new or existing
10 facilities performed in order to carry out a develop-
11 ment or deployment activity authorized under this
12 subtitle shall be paid wages at rates not less than
13 those prevailing on similar construction in the local-
14 ity, as determined by the Secretary of Labor in ac-
15 cordance with subchapter IV of chapter 31 of title
16 40, United States Code.

17 (2) AUTHORITY AND FUNCTIONS.—With re-
18 spect to the labor standards in this subsection, the
19 Secretary of Labor shall have the authority and
20 functions set forth in Reorganization Plan Num-
21 bered 14 of 1950 (15 Fed. Reg. 3176; 5 U.S.C. Ap-
22 pendix) and section 3145 of title 40, United States
23 Code.

24 (h) RELATION TO EXISTING AUTHORITIES.—
25 Projects funded under this subtitle to inject carbon dioxide

1 into geological formations shall be carried out in accord-
2 ance with this subtitle and section 963 of the Energy Pol-
3 icy Act of 2005 (42 U.S.C. 16293) and related provisions
4 of that Act.

5 (i) RESTRICTIONS ON FUNDING.—

6 (1) NO SMALL-SCALE PROJECTS.—A pilot-scale
7 project, or similar small-scale project, under 200
8 megawatts, or 20 percent of the total nameplate
9 generating capacity of the unit, shall not be eligible
10 for support under the special funding program.

11 (2) DEDICATION OF FUNDS.—Except as pro-
12 vided in subsection (j), the special funding program
13 shall use all funds derived from assessments under
14 section 6 to fund grants, contracts, cooperative
15 agreements, and other transactions under this sub-
16 title.

17 (j) ADMINISTRATIVE EXPENSES.—Not more than 5
18 percent of the funds collected for any fiscal year under
19 section 6 may be used for the administrative expenses of
20 carrying out the special funding program.

21 **SEC. 206. ASSESSMENTS AND FUNDING.**

22 (a) AMOUNT.—

23 (1) IN GENERAL.—For each fiscal year fol-
24 lowing the establishment of the special funding pro-
25 gram, the Secretary shall collect an assessment on

1 electric utilities for all fossil fuel-based electricity
2 sold to electric consumers, as determined under sec-
3 tion 208.

4 (2) FUEL TYPE RATE.—The assessments de-
5 scribed in paragraph (1) shall—

6 (A) reflect the relative carbon dioxide emis-
7 sion rates of different fossil fuel-based elec-
8 tricity; and

9 (B) initially shall be not less than the fol-
10 lowing amounts for coal, natural gas, and oil:

Fuel type rate of assessment per kilowatt hour	
Coal	\$0.00091
Natural Gas	\$0.00046
Oil	\$0.00068

11 (3) ADJUSTMENTS.—The Secretary may adjust
12 the amount of assessments on fossil fuel-based elec-
13 tricity to reflect changes in the expected quantities
14 of the electricity from different fuel types so that the
15 assessments generate not less than \$2,000,000,000
16 and not more than \$2,100,000,000 for each fiscal
17 year.

18 (b) TREATMENT OF ASSESSMENTS.—Notwith-
19 standing section 3302 of title 31, United States Code, all
20 amounts collected by the Secretary under this section
21 shall—

22 (1) be credited as offsetting collections to carry
23 out activities authorized under section 205;

1 (2) be available for expenditure only to pay the
2 costs of carrying out the activities authorized under
3 section 205;

4 (3) be available only to the extent provided for
5 in advance in an appropriations Act; and

6 (4) remain available until expended.

7 (c) FEE TITLE.—The Secretary may vest fee title or
8 other property interests acquired under projects conducted
9 under this subtitle in any entity, including the United
10 States.

11 (d) DATA PROTECTION.—For a period not exceeding
12 5 years after completion of the operations phase of a
13 grant, contract, cooperative agreement, or other trans-
14 action under this subtitle the Secretary may provide ap-
15 propriate protections (including exemptions from sub-
16 chapter II of chapter 5 of title 5, United States Code)
17 against the dissemination of information that—

18 (1) results from demonstration activities carried
19 out under this subtitle; and

20 (2) would be a trade secret or commercial or fi-
21 nancial information that is privileged or confidential
22 if the information had been obtained from and first
23 produced by a non-Federal party participating in the
24 project.

1 (e) REVERSION OF UNUSED FUNDS.—Effective be-
2 ginning on the date that is 7 years after the establishment
3 of the special funding program, if the Secretary, acting
4 through the Program Director, does not obligate at least
5 75 percent of the available proceeds of the assessed fees
6 for any fiscal year due to an absence of qualified projects
7 or similar circumstances, the Secretary, without further
8 appropriation, shall reimburse the remaining unobligated
9 balance of the fees, less administrative and other expenses
10 authorized by this subtitle, to the electric utilities on which
11 the fees were assessed, in proportion to the collected as-
12 sessments of the electric utilities.

13 **SEC. 207. ERCOT.**

14 (a) DEFINITIONS.—In this section:

15 (1) ERCOT.—The term “ERCOT” means the
16 Electric Reliability Council of Texas.

17 (2) LOAD-SERVING ENTITY.—The term “load-
18 serving entity” has the meaning given the term in
19 ERCOT Protocols in effect on the date of enactment
20 of this Act.

21 (3) QUALIFIED SCHEDULING ENTITY.—The
22 term “qualified scheduling entity” has the meaning
23 given the term in ERCOT Protocols in effect on the
24 date of enactment of this Act.

1 (4) RENEWABLE ENERGY CREDIT.—The term
2 “renewable energy credit” has the meaning given the
3 term by the Public Utility Commission of Texas pur-
4 suant to section 39.904(b) of the State of Texas’s
5 Public Utility Regulatory Act of 1999 as in effect on
6 the date of enactment of this Act.

7 (b) ASSESSMENT, COLLECTION, AND REMIT-
8 TANCE.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of this subtitle, within ERCOT, the assess-
11 ment required under section 206 shall be—

12 (A) levied directly on qualified scheduling
13 entities, or successor entities of the qualified
14 scheduling entities;

15 (B) charged in an amount that is con-
16 sistent with other charges imposed on qualified
17 scheduling entities as a fee on energy used by
18 the load-serving entities; and

19 (C) collected and remitted by ERCOT to
20 the Secretary in the amounts and in the same
21 manner as described in section 205.

22 (2) REQUIREMENTS.—The assessment amounts
23 referred to in paragraph (1) shall—

24 (A) be determined by the quantity and
25 types of fossil fuel-based electricity delivered di-

1 sumers of the utilities from other entities, it may not
2 be practicable to determine the precise fuel mix for
3 the power sold by each individual electric utility; and

4 (3) it may be necessary to use average data,
5 often on a regional basis with reference to Regional
6 Transmission Organization or North American Elec-
7 tric Reliability Corporation regions, to make the de-
8 terminations necessary for making the assessments.

9 (b) PROPOSED REGULATION.—

10 (1) IN GENERAL.—The Secretary, in consulta-
11 tion with the Energy Information Administration,
12 shall issue for notice and comment a proposed regu-
13 lation to determine the level and type of fossil fuel-
14 based electricity delivered to electric consumers by
15 each electric utility in the United States during the
16 most recent calendar year or other period deter-
17 mined by the Secretary to be most appropriate.

18 (2) BALANCING.—The proposed regulation shall
19 balance the need to be efficient, reasonably precise
20 and timely, taking into account the nature and cost
21 of data currently available and the nature of mar-
22 kets and regulations in effect in various regions of
23 the United States.

24 (3) VARYING METHODOLOGIES.—The Secretary
25 may apply different methodologies in different re-

1 regions of the United States if appropriate to obtain
2 the best balance of factors described in paragraph
3 (2).

4 (c) FINAL REGULATION.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, and after
7 opportunity for comment, the Secretary shall pro-
8 mulgate a final regulation under this section for de-
9 termining the level and type of fossil fuel-based elec-
10 tricity delivered to electric consumers by each elec-
11 tric utility in the United States during the appro-
12 priate period, as determined by the Secretary.

13 (2) NEW DATA SOURCES.—In promulgating the
14 final regulation, the Secretary may—

15 (A) consider opportunities and costs to de-
16 velop new data sources in the future; and

17 (B) issue recommendations for the Energy
18 Information Administration or other agencies to
19 collect the data.

20 (3) UPDATES.—After notice and opportunity
21 for comment, the Secretary may, by regulation, up-
22 date and modify the methodology for making deter-
23 minations under this section.

24 (d) ANNUAL DETERMINATIONS.—

1 (1) IN GENERAL.—In accordance with the final
2 regulation promulgated under subsection (c), the
3 Secretary shall—

4 (A) make annual determinations of the
5 quantities and types for each electric utility;
6 and

7 (B) publish the determinations in the Fed-
8 eral Register.

9 (2) USE.—Determinations described in para-
10 graph (1) shall be used—

11 (A) to conduct the referendum under sec-
12 tion 203(a); and

13 (B) by the Secretary in applying any as-
14 sessment under this subtitle.

15 (e) REHEARING AND JUDICIAL REVIEW.—

16 (1) IN GENERAL.—The owner or operator of
17 any electric utility that believes that the Secretary
18 has misapplied the methodology in the final regula-
19 tion in determining the quantity and types of fossil
20 fuel-based electricity delivered by the electric utility
21 may seek a rehearing of the determination not later
22 than 30 days after publication of the determination
23 in the Federal Register.

1 (2) DEADLINE.—Not later than 30 days after
2 a rehearing petition is formally requested, the Sec-
3 retary shall rule on the rehearing petition.

4 (3) JUDICIAL REVIEW.—A determination of the
5 Secretary under paragraph (2) shall be final and
6 subject to judicial review in the United States Court
7 of Appeals for the District of Columbia Circuit.

8 **SEC. 209. COMPLIANCE WITH ASSESSMENTS.**

9 (a) IN GENERAL.—The Secretary may bring an ac-
10 tion in the appropriate court of the United States to com-
11 pel compliance with an assessment levied by the Secretary
12 under this subtitle.

13 (b) PAYMENT.—A successful action for compliance
14 under this section may require payment by the defendant
15 of the costs incurred by the Secretary in bringing the ac-
16 tion.

17 **SEC. 210. MIDCOURSE REVIEW.**

18 Not later than 5 years after the establishment of the
19 special funding program, the Comptroller General of the
20 United States shall submit to Congress a report that—

21 (1) evaluates the activities of the special fund-
22 ing program, including—

23 (A) project selection and methods of dis-
24 bursement of assessed fees;

1 (B) impacts on the prospects for commer-
2 cialization of carbon capture and sequestration
3 technologies; and

4 (C) the extent to which assessed fees sup-
5 port the qualified projects received by the Sec-
6 retary; and

7 (2) makes such recommendations as the Comp-
8 troller General of the United States considers to be
9 appropriate in each of those areas.

10 **SEC. 211. RECOVERY OF COSTS.**

11 (a) IN GENERAL.—An electric utility, the trans-
12 mission, delivery, or sales of electric energy of which are
13 subject to any form of rate regulation, may not be denied
14 an opportunity to recover the full amount of the prudently
15 incurred costs associated with complying with this subtitle,
16 consistent with applicable State or Federal law.

17 (b) RATEPAYER REBATES.—Regulatory authorities
18 that approve cost recovery pursuant to subsection (a) may
19 order rebates to ratepayers to the extent that electric utili-
20 ties selling fossil fuel-based electricity to electric con-
21 sumers are reimbursed undedicated or unassigned bal-
22 ances in accordance with section 206(c).

1 **SUBTITLE B—SEQUESTRATION**
2 **TAX CREDIT; CAPACITY IN-**
3 **CENTIVES**

4 **SEC. 251. CARBON SEQUESTRATION TAX CREDIT AMEND-**
5 **MENTS.**

6 (a) IN GENERAL.—Section 45Q of the Internal Rev-
7 enue Code of 1986 is amended—

8 (1) by striking the words “by the taxpayer”
9 each place they appear in subsection (a);

10 (2) by striking “would otherwise” in subsection
11 (b)(1)(A) and inserting “would, but for the capture
12 and use or sequestration,”;

13 (3) by striking paragraph (1) of subsection (c)
14 and redesignating paragraphs (2) and (3) as para-
15 graphs (1) and (2), respectively;

16 (4) by striking paragraph (5) of subsection (d)
17 and inserting the following:

18 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—
19 Any credit under this section shall be attributable to
20 the person that captures the qualified carbon diox-
21 ide, except to the extent provided in regulations pre-
22 scribed by the Secretary.”;

23 (5) by adding at the end of subsection (d) the
24 following:

1 “(8) PLACED IN SERVICE.—Carbon capture
2 equipment is placed in service on the date qualified
3 carbon dioxide is first captured at a qualified facility
4 and—

5 “(A) injected in secure geologic storage, or

6 “(B) used as an injectant in a qualified en-
7 hanced hydrocarbon recovery project.

8 “(9) TRANSFERABILITY OF CREDIT.—The cred-
9 it under this section may be transferred to any other
10 person by the person to which the credit is attrib-
11 utable.”; and

12 (6) by striking subsection (e) and inserting the
13 following:

14 “(e) APPLICATION OF SECTION.—The credit under
15 this section shall apply with respect to qualified carbon
16 dioxide captured at a qualified facility at which carbon
17 capture equipment is placed in service prior to January
18 1, 2019. The taxpayer may claim the credit for a 10-year
19 period commencing with the date the carbon capture
20 equipment is placed in service.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply to carbon dioxide captured after
23 the date of enactment of this Act.

1 **SEC. 252. FEDERAL FINANCIAL INCENTIVES FOR ADDI-**
2 **TIONAL 10 GW OF CAPACITY.**

3 (a) ADDITIONAL AUTHORIZATION.—Section 1704 of
4 the Energy Policy Act of 2005 (42 U.S.C. 16514) is
5 amended—

6 (1) by adding the following at the end of sub-
7 section (a): “In addition to other amounts made
8 available under this section, there are authorized
9 \$20,000,000,000 to be used only for guarantees
10 under this title for—

11 “(1) the construction of new commercial scale
12 electric generation units, or industrial facility units,
13 that are eligible units utilizing carbon capture and
14 sequestration technology;

15 “(2) the retrofit of existing commercial scale
16 electric generation units, or industrial facility units,
17 that are eligible units providing for carbon capture
18 and sequestration; and

19 “(3) the construction of carbon dioxide trans-
20 mission pipelines to transport carbon dioxide to se-
21 questration sites or to sites where such carbon diox-
22 ide will be used for hydrocarbon recovery.”; and

23 (2) by adding at the end thereof the following:

24 “(c) DEFINITIONS.—In this section:

25 “(1) COMMERCIAL SCALE.—The term ‘commer-
26 cial scale’ means, with respect to an electric genera-

1 tion unit, that the unit is designed to generate and
2 sell electric power directly to consumers, or for re-
3 sale, with a carbon dioxide capture system having a
4 useful life of at least 15 years.

5 “(2) PERMANENT GEOLOGIC STORAGE SITE.—
6 The term ‘permanent geologic storage site’ means a
7 site that the Secretary determines is capable of stor-
8 ing carbon dioxide in saline or other deep geologic
9 storage structures.

10 “(3) ELIGIBLE UNIT.—The term ‘eligible unit’
11 means an electric generation unit or industrial facil-
12 ity unit located in the United States that—

13 “(A) uses coal or petroleum coke for at
14 least 75 percent of the fuel used by the unit;

15 “(B) uses carbon capture technology to
16 treat at least—

17 “(i) 20 percent of the carbon dioxide
18 emissions of the unit; or

19 “(ii) an amount of carbon dioxide
20 emissions that is attributable to 200
21 megawatts of the total nameplate gener-
22 ating capacity of the unit;

23 “(C) captures at least 80 percent of the
24 carbon dioxide emissions from the treated emis-
25 sions of the unit;

1 “(D) transports such captured carbon di-
2 oxide to a permanent geologic storage site in
3 the United States or to a site on the North
4 American continent for use for hydrocarbon re-
5 covery;

6 “(E) provides for the permanent storage of
7 such carbon dioxide in such site; and

8 “(F) has been approved by the Secretary
9 as eligible under this subsection.

10 “(d) ELIGIBLE UNITS.—

11 “(1) CERTIFICATION.—No unit shall be an eli-
12 gible unit under subsection (c) unless the Secretary
13 has certified such unit as meeting the requirements
14 of such subsection (c) pursuant to a certification
15 process established by the Secretary by rule.

16 “(2) LIMITATION.—The Secretary may certify
17 eligible units under this subsection which total in the
18 aggregate no more than 10 gigawatts of treated gen-
19 erating capacity, of which not more than the equiva-
20 lent of 5 gigawatts of capacity may be for industrial
21 units. For purposes of determining equivalency
22 under this subsection, an industrial unit with uncon-
23 trolled carbon dioxide emissions equal to the uncon-
24 trolled carbon dioxide emissions of a 500 megawatt
25 electric generation unit shall be treated as having in-

1 stalled capacity equivalent to such 500 megawatt
2 unit.”.

3 (b) TAX CREDITS.—

4 (1) IN GENERAL.—Subpart E of part IV of
5 subchapter A of chapter 1 of the Internal Revenue
6 Code of 1986 is amended by adding at the end
7 thereof the following:

8 **“SEC. 48E. PIONEER CCS FACILITIES.**

9 “(a) ADDITIONAL QUALIFYING ADVANCED COAL
10 PROJECT CREDIT.—For purposes of section 46, in the
11 case of each project which has been approved by the Sec-
12 retary of Energy as an eligible unit under section 1704
13 of the Energy Policy Act of 2005 (as amended by section
14 252 of the Carbon Capture and Sequestration Deployment
15 Act of 2010), the qualifying advanced coal project credit
16 for any taxable year shall also include an additional
17 amount equal to 30 percent of the incremental cost for
18 carbon capture and sequestration systems, determined as
19 follows:

20 “(1) For an eligible unit that is a new electric
21 generation unit, the incremental costs shall be the
22 amount by which the costs incurred by the taxpayer
23 for the unit exceed the costs of construction of a
24 comparable supercritical pulverized coal unit without
25 carbon capture and sequestration technology.

1 “(2) For an eligible unit that is a new indus-
2 trial unit, the incremental costs shall be the amount
3 by which the costs incurred by the taxpayer for the
4 unit exceed the costs of construction of a comparable
5 industrial unit without carbon capture and seques-
6 tration.

7 “(3) For an eligible unit that retrofits a carbon
8 capture, transportation, and sequestration system on
9 an existing generation or industrial unit, the incre-
10 mental cost shall be the construction costs incurred
11 by the taxpayer for the carbon capture and seques-
12 tration system.

13 “(b) DEFINITIONS.—For purposes of this section, the
14 terms ‘commercial scale’ and ‘eligible unit’ have meanings
15 given those terms by section 1704 of the Energy Policy
16 Act of 2005 (as amended by section 252 of the Carbon
17 Capture and Sequestration Deployment Act of 2010).

18 “(c) ELECTION.—No costs for which a credit has
19 been provided under section 48A or section 48B shall be
20 eligible for a credit under this section.”.

21 (2) CLERICAL AMENDMENT.—The table of con-
22 tents for such subpart E is amended by adding at
23 the end thereof the following:

“48E. Pioneer CCS facilities.”.

24 (3) EFFECTIVE DATE.—The amendments made
25 by this subsection shall apply with respect to—

1 (A) new facilities placed in service after
2 December 31, 2010, and before January 1,
3 2025; and

4 (B) the retrofit of existing facilities that
5 commence operation with such retrofit after De-
6 cember 31, 2010, and before January 1, 2025.

7 **TITLE III—62 GW EARLY ADOPT-**
8 **ER PROGRAM; SEQUESTRA-**
9 **TION BONDS**

10 **SEC. 301. TAX CREDIT FOR EARLY ADOPTION OF CCS.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-
12 chapter A of chapter 1 of the Internal Revenue Code of
13 1986 is amended by adding at the end thereof the fol-
14 lowing:

15 **“SEC. 45S. CREDIT FOR EARLY ADOPTION OF CCS.**

16 “(a) EARLY ADOPTION CREDIT.—For purposes of
17 section 38, the carbon dioxide sequestration credit for any
18 taxable year shall be the amount set forth in subsection
19 (b), in the case of certified new or retrofit electric utility
20 units or certified new or retrofit industrial units in pro-
21 viding for carbon capture and sequestration in secure geo-
22 logic storage, adjusted as provided in subsection (c).

23 “(b) DETERMINATION OF AMOUNT.—

24 “(1) 65 PERCENT CAPTURE RATE.—Except as
25 provided in paragraph (2) and adjusted in sub-

1 section (c), the amount of the credit under sub-
2 section (a) shall be \$67 per ton of carbon dioxide
3 captured and sequestered in the case of a certified
4 new or retrofit electric utility unit or a certified new
5 or retrofit industrial unit that—

6 “(A) is placed in service before January 1,
7 2025, and

8 “(B) captures and sequesters at least 65
9 percent of the carbon dioxide emissions in the
10 treated portion of the flue gas or fuel gas
11 stream.

12 “(2) HIGHER CAPTURE RATE.—The amount of
13 credit provided under paragraph (1) shall be in-
14 creased by \$1.15 per ton for each percent of addi-
15 tional carbon dioxide emissions captured and seques-
16 tered above such 65 percent capture rate, up to a
17 maximum credit of \$96 per ton for a capture and
18 sequestration rate of 90 percent or more.

19 “(c) ADJUSTMENT FOR LATER COMMENCEMENT.—
20 The amount of the credit determined under subsection (b)
21 shall be reduced by \$1 per ton of carbon dioxide for each
22 year after the calendar year 2024 in which the carbon cap-
23 ture and sequestration equipment is placed in service.

24 “(d) PLACED IN SERVICE.—For purposes of this sec-
25 tion, the term ‘placed in service’ with respect to a certified

1 new or retrofit electric utility unit or a certified new or
2 retrofit industrial unit is the date on which such unit first
3 captures and sequesters carbon dioxide in secure geologic
4 storage.

5 “(e) CERTIFICATION OF 62 GW.—No credit shall be
6 allowed under this section unless the electric utility unit
7 or industrial unit with respect to which a credit is applied
8 has been certified by the Secretary. Upon application of
9 any taxpayer for certification under this section, the Sec-
10 retary shall certify the unit in accordance with the certifi-
11 cation program under subsection (g).

12 “(f) LIMITATION.—The Secretary shall certify eligi-
13 ble new or retrofit units under this subsection which total
14 in the aggregate no more than 62 gigawatts of treated
15 generating capacity, of which not more than 10 percent
16 of this capacity may be for industrial units. For purposes
17 of determining gigawatt equivalency under this subsection,
18 6 million metric tonnes per year of captured and seques-
19 tered carbon dioxide emissions from industrial units shall
20 be treated as having the capacity equivalent of 1 gigawatt
21 of treated generating capacity.

22 “(g) CERTIFICATION PROGRAM.—

23 “(1) The Secretary shall establish a program
24 for the certification of new or retrofit electric units
25 and new or retrofit industrial units utilizing carbon

1 capture and sequestration technology eligible to
2 apply for a credit under this section. A facility shall
3 be certified only if the owner or operator of the
4 unit—

5 “(A) specifies the capacity of the unit sub-
6 ject to carbon capture and sequestration, and

7 “(B) commits to place the unit, or equip-
8 ment in the case of a retrofit, in service within
9 5 years after the date of the certification and
10 to comply with such interim development mile-
11 stones (including the issuance of all necessary
12 Federal, State, and local permits) as the Sec-
13 retary shall, by rule, prescribe.

14 “(2) Failure to comply with the 7-year date set
15 forth in this subsection or with any significant mile-
16 stone or other requirement established by the Sec-
17 retary under paragraph (1) shall result in the termi-
18 nation of the certification. The 7-year date shall be
19 extended by the period of any delay caused by chal-
20 lenges or litigation related to permits required for
21 the facility. No unit for which a certification has
22 been terminated shall be eligible for a new certifi-
23 cation under this section.

24 “(h) APPLICATION OF SECTION.—The credit under
25 this section shall apply to carbon dioxide captured and se-

1 questered in secure geologic storage from a certified new
2 or retrofit electric utility unit or from a certified new or
3 retrofit industrial unit. The taxpayer may claim the credit
4 for a 10-year period commencing on the date the unit is
5 placed in service.

6 “(i) OTHER CREDITS.—Carbon dioxide from equip-
7 ment for which carbon dioxide storage credit has been al-
8 lowed under section 45Q or an investment credit has been
9 allowed under section 48E shall not be eligible for a credit
10 under this section.

11 “(j) DEFINITIONS.—In this section:

12 “(1) RETROFIT.—The term ‘retrofit’ means the
13 application of carbon capture and sequestration
14 technology to an existing unit, provided that such
15 technology treats at least—

16 “(A) 20 percent of the carbon dioxide
17 emissions of the unit; or

18 “(B) an amount of carbon dioxide emis-
19 sions that is attributable to 200 megawatts of
20 the total nameplate generating capacity (or, in
21 the case of an industrial unit, an equivalent ca-
22 pacity).

23 “(2) INDUSTRIAL UNIT.—The term ‘industrial
24 unit’ means a unit that—

1 “(A) is not a qualifying electric generating
2 unit;

3 “(B) uses coal or petroleum coke for at
4 least 75 percent of the fuel used by the unit;
5 and

6 “(C) absent carbon capture and sequestra-
7 tion, would emit greater than 500,000 tons per
8 year of carbon dioxide.

9 “(3) TREATED GENERATING CAPACITY.—The
10 term ‘treated generating capacity’ means the portion
11 of the total generating capacity of an electric gener-
12 ating unit (or, in the case of an industrial unit, an
13 equivalent capacity) for which the flue gas or fuel
14 gas is treated by carbon capture and sequestration
15 technology.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for subpart D of part IV of subchapter A of chapter 1
18 of the Internal Revenue Code of 1986 is amended by add-
19 ing at the end thereof the following:

 “45S. Credit for early adoption of CCS”.

20 **SEC. 302. CARBON SEQUESTRATION BONDS.**

21 (a) IN GENERAL.—Part IV of subchapter A of chap-
22 ter 1 of the Internal Revenue Code of 1986 is amended
23 by adding at the end the following new subpart:

24 **“Subpart K—Carbon Sequestration Bonds**

 “Sec. 54BB. Carbon Sequestration bonds.

1 **“SEC. 54BB. CARBON SEQUESTRATION BONDS.**

2 “(a) IN GENERAL.—If a taxpayer holds a carbon se-
3 questration bond on one or more interest payment dates
4 of the bond during any taxable year, there shall be allowed
5 as a credit against the tax imposed by this chapter for
6 the taxable year an amount equal to the sum of the credits
7 determined under subsection (b) with respect to such
8 dates.

9 “(b) AMOUNT OF CREDIT.—The amount of the credit
10 determined under this subsection with respect to any in-
11 terest payment date for a carbon sequestration bond is
12 70 percent of the amount of interest payable by the issuer
13 with respect to such date .

14 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

15 “(1) IN GENERAL.—The credit allowed under
16 subsection (a) for any taxable year shall not exceed
17 the excess of—

18 “(A) the sum of the regular tax liability
19 (as defined in section 26(b)) plus the tax im-
20 posed by section 55, over

21 “(B) the sum of the credits allowable
22 under this part (other than subpart C and this
23 subpart).

24 “(2) CARRYOVER OF UNUSED CREDIT.—If the
25 credit allowable under subsection (a) exceeds the
26 limitation imposed by paragraph (1) for such taxable

1 year, such excess shall be carried to the succeeding
2 taxable year and added to the credit allowable under
3 subsection (a) for such taxable year (determined be-
4 fore the application of paragraph (1) for such suc-
5 ceeding taxable year).

6 “(d) CARBON SEQUESTRATION BOND.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, the term ‘carbon sequestration bond’ means
9 any obligation issued as part of an issue if—

10 “(A) 95 percent of the available project
11 proceeds (as defined in section 54A) of such
12 issue, in excess of the amounts in a reasonably
13 required reserve (within the meaning of section
14 150(a)(3)) for such issue, are to be used for
15 qualified carbon sequestration costs incurred by
16 public power providers or cooperative electric
17 companies,

18 “(B) the obligation is issued by a qualified
19 issuer, and

20 “(C) the issuer makes an irrevocable elec-
21 tion to have this section apply.

22 “(2) APPLICABLE RULES.—For purposes of ap-
23 plying paragraph (1)—

24 “(A) an issue shall not be treated as meet-
25 ing the requirements of paragraph (1) unless

1 the issue satisfies the requirements of section
2 148 with respect to the proceeds of the issue,

3 “(B) for purposes of applying section 148
4 to such an issue, the yield on a carbon seques-
5 tration bond shall be determined without regard
6 to the credit allowed under subsection (a),

7 “(C) an issue shall not be treated as meet-
8 ing the requirements of this paragraph unless
9 the issuer of the carbon sequestration bonds
10 submits reports similar to the reports required
11 under section 149(e), and

12 “(D) a bond shall not be treated as a car-
13 bon sequestration bond if the issue price has
14 more than a de minimis amount (determined
15 under rules similar to the rules of section
16 1273(a)(3)) of premium over the stated prin-
17 cipal amount of the bond.

18 “(e) LIMITATION ON AMOUNT OF BONDS DES-
19 IGNATED.—

20 “(1) IN GENERAL.—There is a national carbon
21 sequestration bond limitation of \$5,000,000,000.

22 “(2) ALLOCATION BY SECRETARY.—The Sec-
23 retary shall make allocations of the amount of the
24 national carbon sequestration bond limitation in

1 such manner as the Secretary determines appro-
2 priate.

3 “(f) INTEREST PAYMENT DATE.—For purposes of
4 this section, the term ‘interest payment date’ means any
5 date on which the holder of record of the carbon sequestra-
6 tion bond is entitled to a payment of interest under such
7 bond.

8 “(g) SPECIAL RULES.—

9 “(1) INTEREST ON CARBON SEQUESTRATION
10 BONDS INCLUDIBLE IN GROSS INCOME FOR FED-
11 ERAL INCOME TAX PURPOSES.—For purposes of this
12 title, interest on any carbon sequestration bond shall
13 be includible in gross income.

14 “(2) APPLICATION OF CERTAIN RULES.—Rules
15 similar to the rules of subsections (f), (g), (h), and
16 (i) of section 54A shall apply for purposes of the
17 credit allowed under subsection (a).

18 “(h) SPECIAL RULE FOR QUALIFIED CARBON SE-
19 QUESTRATION BONDS.—In the case of a qualified carbon
20 sequestration bond—

21 “(1) ISSUER ALLOWED REFUNDABLE CRED-
22 IT.—In lieu of any credit allowed under this section
23 with respect to such bond, the issuer of such bond
24 shall be allowed a credit as provided in section 6432.

1 “(2) QUALIFIED CARBON SEQUESTRATION
2 BOND.—In this subsection, the term ‘qualified car-
3 bon sequestration bond’ means any carbon seques-
4 tration bond issued as part of an issue if the issuer
5 makes an irrevocable election to have this subsection
6 apply.

7 “(i) DEFINITIONS.—In this section:

8 “(1) QUALIFIED CARBON SEQUESTRATION
9 COSTS.—The term ‘qualified carbon sequestration
10 costs’ means the incremental costs for carbon cap-
11 ture and sequestration systems as described in sec-
12 tion 48E (without regard to any placed in service
13 date), which systems are owned by a public power
14 provider or a cooperative electric company.

15 “(2) PUBLIC POWER PROVIDER.—The term
16 ‘public power provider’ means a State utility with a
17 service obligation, as such terms are defined in sec-
18 tion 217 of the Federal Power Act (as in effect on
19 the date of the enactment of the Carbon Capture
20 and Sequestration Deployment Act of 2010).

21 “(3) COOPERATIVE ELECTRIC COMPANY.—The
22 term ‘cooperative electric company’ means a mutual
23 or cooperative electric company described in section
24 501(c)(12) or section 1381 (a)(2)(C).

1 issuer) 65 percent of the interest payable under such bond
2 on such date.

3 “(c) DEFINITIONS.—In this section:

4 “(1) INTEREST PAYMENT DATE.—The term ‘in-
5 terest payment date’ means each date on which in-
6 terest is payable by the issuer under the terms of
7 the bond.

8 “(2) QUALIFIED CARBON SEQUESTRATION
9 BOND.—The term ‘qualified carbon sequestration
10 bond’ has the meaning given such term in section
11 54BB(h)(2).

12 “(d) Application of Arbitrage Rules.—For purposes
13 of section 148, the yield on a qualified bond shall be re-
14 duced by the credit allowed under this section.”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 1324(b)(2) of title 31, United
17 States Code, is amended by striking “or 6431” and
18 inserting “6431, or 6432,”.

19 (2) Section 54A(c)(1)(B) of the Internal Rev-
20 enue Code of 1986 is amended by striking “subparts
21 C and J” and inserting “subparts C, J, and K”.

22 (3) Sections 54(c)(2), 1397E(c)(2), and
23 1400N(l)(3)(B) of such Code are each amended by
24 striking “and J” and inserting “J, and K”.

1 (4) Section 6211(b)(4)(A) of such Code is
2 amended by striking “and 6431” and inserting
3 “6431, and 6432”.

4 (5) Section 6401(b)(1) of such Code is amend-
5 ed by striking “and J” and inserting “J, and K”.

6 (6) The table of subparts for part IV of sub-
7 chapter A of chapter 1 of such Code is amended by
8 adding at the end the following new item:

 “SUBPART K. CARBON SEQUESTRATION BONDS.”.

9 (7) The table of sections for subchapter B of
10 chapter 65 of such Code is amended by adding at
11 the end the following new item:

 “Sec. 6432. Credit for qualified carbon sequestration bonds allowed to issuer.”.

12 (d) TRANSITIONAL COORDINATION WITH STATE
13 LAW.—Except as otherwise provided by a State after the
14 date of the enactment of this Act, the interest on any car-
15 bon sequestration bond (as defined in section 54BB of the
16 Internal Revenue Code of 1986, as added by this section)
17 and the amount of any credit determined under such sec-
18 tion with respect to such bond shall be treated for pur-
19 poses of the income tax laws of such State as being exempt
20 from Federal income tax.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to obligations issued after the date
23 of the enactment of this Act.

1 **TITLE IV—CCS TECHNOLOGY**
2 **STANDARD FOR POWERPLANTS**

3 **SEC. 401. CCS STANDARDS FOR COAL-FUELED POWER**
4 **PLANTS.**

5 (a) IN GENERAL.—Title I of the Clean Air Act (42
6 U.S.C. 7401 et seq.) is amended by after section 111 the
7 following:

8 **“SEC. 111A. CCS STANDARDS FOR NEW COAL-FIRED POWER**
9 **PLANTS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) COVERED UNITS.—The term ‘covered unit’
12 means an electric utility generating unit that derives
13 50 percent of its annual heat input from coal, petro-
14 leum coke, or any combination of these fuels.

15 “(2) INITIALLY PERMITTED.—The term ‘ini-
16 tially permitted’ means, with respect to an electric
17 utility generating unit, that the owner or operator of
18 a unit has received a preconstruction approval or
19 permit under this Act, for the covered unit as a new
20 (not a modified) source, but administrative review or
21 appeal of such approval or permit has not been ex-
22 hausted. A subsequent modification of any such ap-
23 proval or permit, ongoing administrative or court re-
24 view, appeals, or challenges, or the existence or toll-
25 ing of any time to pursue further review, appeals, or

1 challenges shall not affect the date on which a unit
2 is considered to be initially permitted.

3 “(3) TREATED GENERATING CAPACITY.—The
4 term ‘treated generating capacity’ means the portion
5 of the total generating capacity of an electric gener-
6 ating unit (or, in the case of an industrial unit, an
7 equivalent capacity) for which the flue gas or fuel
8 gas is treated by carbon capture and sequestration
9 technology.”.

10 “(b) STANDARDS.—

11 “(1) EMISSION LIMIT.—A covered unit that is
12 initially permitted on or after the date of the enact-
13 ment of the Carbon Capture and Sequestration De-
14 ployment Act of 2010 and before January 1, 2020,
15 shall achieve, by the compliance date set forth in
16 paragraph (2), an emission limit for carbon dioxide
17 that reflects 50 percent reduction from the carbon
18 content of the fuel used by the unit, as measured on
19 an annual basis.

20 “(2) COMPLIANCE.—Compliance with the re-
21 quirement set forth in paragraph (1) shall be re-
22 quired by the earlier of the following:

23 “(A) Four years after the date the Admin-
24 istrator has published a report that there are in
25 commercial operation in the United States elec-

1 tric generating units or other stationary sources
2 equipped with carbon capture and sequestration
3 technology that, in the aggregate—

4 “(i) have a total of at least 10
5 gigawatts of treated generating capacity;
6 and

7 “(ii) include electric generating units
8 with at least 4 gigawatts of treated gener-
9 ating capacity which units are capturing
10 and sequestering in deep geologic saline
11 formations the aggregate at least 24 mil-
12 lion tons of carbon dioxide per year, cal-
13 culated on an aggregate annualized basis;
14 or

15 “(B) the later of—

16 “(i) January 1, 2030; or

17 “(ii) the date by which the assessment
18 under section 102(b) determines that it is
19 reasonable to conclude that technology is
20 available to the commercial marketplace.

21 “(c) REGULATIONS.—Not later than 2 years after the
22 date of enactment of the Carbon Capture and Sequestra-
23 tion Deployment Act of 2010, the Administrator shall pro-
24 mulgate regulations to carry out the requirements of this
25 section.”.

1 (b) COMPLIANCE AND JUDICIAL REVIEW.—Sections
2 114 and 307 of such Act are each amended by striking
3 “section 111” in each place it appears and inserting “sec-
4 tion 111 or section 111A”.

5 **SEC. 402. CONSOLIDATED REVIEW OF FEDERAL AUTHOR-**
6 **IZATIONS.**

7 (a) DESIGNATION OF LEAD AGENCY.—

8 (1) IN GENERAL.—The Department of Energy
9 shall act as the lead agency for the purposes of co-
10 ordinating all applicable Federal authorizations and
11 related environmental reviews with respect to an eli-
12 gible project, including any requirements of—

13 (A) the Clean Air Act (42 U.S.C. 7401 et
14 seq.);

15 (B) the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.);

17 (C) the Federal Water Pollution Control
18 Act (33 U.S.C. 1251 et seq.);

19 (D) the National Environmental Policy Act
20 of 1969 (42 U.S.C. 4321 et seq.); or

21 (E) the Safe Drinking Water Act (42
22 U.S.C. 300f et seq.).

23 (2) OTHER AGENCIES.—Each Federal and
24 State agency required to provide a Federal author-
25 ization for an eligible project shall cooperate with

1 the Secretary and comply with the deadlines estab-
2 lished by the Secretary under subsection (b).

3 (b) COORDINATION AND CONSOLIDATED REVIEW.—

4 (1) SCHEDULE.—As the head of the lead agen-
5 cy, and in consultation with other agencies, the Sec-
6 retary shall establish a schedule for all Federal au-
7 thorizations with respect to each eligible project. In
8 establishing the schedule, the Secretary shall—

9 (A) set binding intermediate milestones
10 and deadlines to ensure expeditious completion
11 of all proceedings and final action on all Fed-
12 eral authorizations relating to the eligible
13 project;

14 (B) require that all permit decisions and
15 related environmental reviews under applicable
16 Federal laws shall be completed—

17 (i) within 1 year after the submission
18 of a complete application for each permit
19 decision or environmental review; or

20 (ii) if a requirement of another provi-
21 sion of Federal law does not permit com-
22 pliance with the 1-year deadline in clause
23 (i), as soon thereafter as is practicable;
24 and

1 (C) coordinate, to the maximum extent
2 practicable, any permitting and environmental
3 reviews that apply to the eligible project only
4 under State law.

5 (2) MEMORANDUM OF UNDERSTANDING.—Not
6 later than 1 year after the date of enactment of this
7 Act, the Secretary and the heads of all Federal
8 agencies with authority to issue Federal authoriza-
9 tions shall execute a memorandum of understanding
10 to ensure that the coordinated and streamlined re-
11 view and prompt issuance of Federal authorizations
12 for eligible projects.

13 (3) PRE-APPLICATION REVIEW.—The Secretary
14 shall establish and facilitate a pre-application review
15 process to expedite the review of all Federal author-
16 izations, including permit decisions and related envi-
17 ronmental reviews, for any eligible project under ap-
18 plicable Federal laws. The pre-application review
19 process shall require each agency involved in the re-
20 view process to confer with prospective applicants
21 and identify those issues of major concern to the
22 agency and the general public regarding the eligible
23 project. The pre-application review process shall re-
24 quire such agencies to provide a written response to
25 an inquiry from a prospective applicant not later

1 than 60 days after the completion of the pre-applica-
2 tion review process.

3 (4) CONSOLIDATION OF ENVIRONMENTAL RE-
4 VIEWS.—The Secretary, in consultation with affected
5 agencies, shall prepare a single environmental review
6 document for assessing all major Federal actions re-
7 lated to any eligible project under section 102 of the
8 National Environmental Policy Act of 1969 (42
9 U.S.C. 4332). Agencies subject to such environ-
10 mental review requirements shall use the document
11 as the basis for all decisions related to the eligible
12 project.

13 (5) FAILURE TO MEET SCHEDULE.—If a Fed-
14 eral or State agency does not complete a proceeding
15 for an approval that is required for a Federal au-
16 thorization in accordance with the schedule estab-
17 lished by the Secretary under this subsection, the
18 applicant may pursue remedies under subsection (d).

19 (c) CONSOLIDATED RECORD.—The Secretary shall,
20 with the cooperation of Federal and State agencies, main-
21 tain a complete consolidated record of all decisions made
22 or actions taken by the Secretary or by a Federal agency
23 (or State agency acting under delegated Federal author-
24 ity) with respect to any Federal authorization. Such record
25 shall be the record for judicial review under subsection (d)

1 of decisions made or actions taken of Federal and State
2 agencies, except that, if the Court determines that the
3 record does not contain sufficient information, the Court
4 may remand the proceeding to the Secretary for further
5 development of the consolidated record.

6 (d) JUDICIAL REVIEW.—

7 (1) IN GENERAL.—The United States Court of
8 Appeals for the circuit in which the eligible project
9 is proposed to be constructed shall have original and
10 exclusive jurisdiction over any civil action for the re-
11 view of—

12 (A) an order or action related to a Federal
13 authorization, by a Federal agency (other than
14 the Secretary) or State agency acting pursuant
15 to Federal law to issue, including any order or
16 action to condition or deny any Federal author-
17 ization; and

18 (B) an alleged failure to act by a Federal
19 or State agency with respect to a Federal au-
20 thorization.

21 The failure of an agency to take action on a Federal
22 authorization in accordance with the schedule estab-
23 lished by the Secretary under subsection (b)(1) shall
24 be considered to be inconsistent with Federal law for
25 the purposes of paragraph (2) of this subsection.

1 (2) COURT ACTION.—

2 (A) IN GENERAL.—The Court shall re-
3 mand the proceeding for a particular eligible
4 project to the appropriate agency if the Court
5 finds that—

6 (i) there has occurred either—

7 (I) an order or action described
8 in paragraph (1)(A) that is incon-
9 sistent with the Federal law governing
10 the Federal authorization for the eligi-
11 ble project; or

12 (II) a failure to act as described
13 in paragraph 1(B) with respect to the
14 eligible project; and

15 (ii) the order, action, or failure to act
16 would prevent the siting, construction, or
17 operation of the eligible project.

18 (B) REMAND.—If the Court remands the
19 order or action to the appropriate Federal or
20 State agency under subparagraph (A), the
21 Court shall provide specific direction to remedy
22 any inconsistency with Federal law and set a
23 reasonable schedule and appropriate deadlines
24 for the agency to act on remand.

1 (4) FILING CONSOLIDATED RECORD.—For any
2 civil action described in this subsection, the Sec-
3 retary shall promptly file with the Court the consoli-
4 dated record of the order or action to which the ap-
5 peal hereunder relates, as compiled by the Secretary
6 pursuant to subsection (c).

7 (5) EXPEDITED REVIEW.—The Court shall set
8 any action brought under this subsection for expe-
9 dited consideration.

10 (e) DEFINITIONS.—In this section:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the Environ-
13 mental Protection Agency.

14 (2) ELIGIBLE PROJECT.—The term “eligible
15 project” means any project that is eligible to receive
16 a financial incentive under title II or III this Act or
17 the amendments made by this Act.

18 (3) FEDERAL AUTHORIZATION.—The term
19 “Federal authorization”—

20 (A) means any authorization required
21 under Federal law, whether administered by a
22 Federal or State agency, with respect to the
23 siting, construction, or operation of an eligible
24 project; and

1 (B) includes any permit, license, special
2 use authorizations, certifications, opinions, con-
3 currence, or other approvals that may be re-
4 quired under Federal law with respect to the
5 siting, construction, or operation of an eligible
6 project.

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of Energy.

9 (f) REGULATIONS.—Not later than 18 months after
10 the date of enactment of this Act, the Secretary shall es-
11 tablish by rule, after notice and public opportunity to com-
12 ment, regulations that are necessary to implement this
13 section.

14 (g) RELATIONSHIP TO OTHER LAWS.—Except as spe-
15 cifically provided, nothing in this section affects any re-
16 quirement of any Federal or State law, including the Fed-
17 eral laws described in subsection (a)(1).

18 **TITLE V—CARBON STORAGE**
19 **STEWARDSHIP**

20 **SEC. 501. SHORT TITLE.**

21 This title may be cited as the “Carbon Storage Stew-
22 ardship Act”.

23 **SEC. 502. PURPOSE.**

24 The purpose of this title is to facilitate carbon cap-
25 ture and storage in suitable underground formations by—

1 (1) providing for long-term stewardship of
2 closed carbon dioxide storage sites to ensure con-
3 tinuing protection of health, safety, and the environ-
4 ment during the stewardship period;

5 (2) providing a system for compensation to any
6 person that may suffer personal injury or property
7 damage from stored carbon dioxide at such a site;

8 (3) establishing financial responsibility and a
9 dedicated funding mechanism for such stewardship
10 and compensation; and

11 (4) establishing a transitional program that
12 provides limited indemnification for owners and op-
13 erators of qualifying first mover projects to dem-
14 onstrate the capture and geological storage of car-
15 bon dioxide.

16 **SEC. 503. DEFINITIONS.**

17 In this title:

18 (1) BOARD.—The term “Board” means the
19 Carbon Storage Stewardship Board that is estab-
20 lished under section 508.

21 (2) CARBON DIOXIDE.—The term “carbon diox-
22 ide” means carbon dioxide that is segregated for
23 purposes of geologic storage, including small quan-
24 tities of other compounds to the extent authorized by

1 the terms of the injection permits issued for the
2 storage facility.

3 (3) CERTIFICATE OF COMPLETION.—The term
4 “certificate of completion” means a determination
5 issued with respect to a storage facility by the regu-
6 latory authority that certifies that the project oper-
7 ator has completed injection operations, well closure,
8 and any required monitoring and remediation at a
9 storage facility, so that there is a reasonable basis
10 to believe that carbon dioxide is and will continue to
11 be safely stored at the site and will not present an
12 unreasonable risk to health, safety, or the environ-
13 ment (including drinking water supplies) during the
14 stewardship period.

15 (4) CERTIFIED POST-CLOSURE STORAGE FACIL-
16 ITY.—The term “certified post closure storage facil-
17 ity” means a storage facility for which the regu-
18 latory authority has issued a certificate of comple-
19 tion.

20 (5) CIVIL CLAIM.—The term “civil claim”
21 means any claim for civil relief with respect to a fa-
22 cility that arises from migration of carbon dioxide
23 from such facility or is otherwise related to the in-
24 jection of carbon dioxide at such facility, excluding—

1 (A) any claim arising from breach of an
2 express contract; and

3 (B) in the case of a project operator, any
4 claim arising from—

5 (i) willful violation of applicable rules
6 of the regulatory authority; or

7 (ii) any false statement or misrepre-
8 sentation in an application for a certificate
9 of completion; and

10 (iii) conduct that constitutes reckless
11 or intentional misconduct by the project
12 operator.

13 (6) FEDERAL OR STATE ENVIRONMENTAL RE-
14 QUIREMENT.—The term “Federal or State environ-
15 mental requirement” means a requirement of a Fed-
16 eral or State agency that—

17 (A) relates to health, safety, or the envi-
18 ronment that results from the injection of car-
19 bon dioxide at a certified post-closure storage
20 facility;

21 (B) is authorized under Federal or State
22 law; and

23 (C) imposes an obligation relating to such
24 injection of carbon dioxide during the steward-
25 ship period to—

1 (i) monitor the migration of carbon
2 dioxide within and from a certified post-
3 closure storage facility;

4 (ii) perform remediation at such facil-
5 ity;

6 (iii) desist from any action that poses
7 a health, safety, or environment risk; or

8 (iv) take other such action that may
9 be necessary to ensure the protection of
10 health, safety or the environment.

11 (7) FIRST MOVER PROJECT.—The term “first
12 mover project” is a project involving the large-scale
13 capture and geological sequestration of carbon diox-
14 ide that the Secretary selects for indemnification
15 under section 508.

16 (8) NON-FEDERAL MEMBER.—The term “non-
17 Federal member” means any member of the Board
18 who is not otherwise employed by the Federal gov-
19 ernment.

20 (9) PROGRAM.—The term “Program” means
21 the National Carbon Storage Stewardship Program
22 established under section 507.

23 (11) PROJECT OPERATOR.—The term “project
24 operator” means the entity responsible for injection
25 operations at a storage facility.

1 (12) PUBLIC CLAIM.—The term “public
2 claim”—

3 (A) means a civil claim that is asserted by
4 a third party for—

5 (i) personal injury;

6 (ii) property damage;

7 (iii) trespass; or

8 (iv) nuisance; but

9 (B) does not include claims for punitive
10 damages or non-economic losses.

11 (13) REGULATORY AUTHORITY.—The term
12 “regulatory authority” for a storage facility means
13 the State or Federal agency that issues an injection
14 permit for such storage facility. If more than one
15 agency has such authority with respect to a facility,
16 the Board shall designate one of the permitting
17 agencies as the regulatory authority for such facility
18 for purposes of carrying out this title.

19 (14) REMEDIATION.—The term “remediation”
20 means action to remedy, mitigate, or correct any
21 danger to health, safety, or the environment (includ-
22 ing any damage to underground drinking water sup-
23 plies) that occurs as a result of prior injection of
24 carbon dioxide at a certified post-closure storage fa-
25 cility.

1 (15) SECRETARY.—The term “Secretary”
2 means the Secretary of Energy.

3 (16) STEWARDSHIP AGENCY.—The term “stew-
4 ardsHIP agency” means the agency that has assumed
5 stewardship responsibility under section 504.

6 (17) STEWARDSHIP PERIOD.—The term “stew-
7 ardsHIP period” for a storage facility means the pe-
8 riod of time that begins upon the date that the regu-
9 latory authority issues the certificate of completion
10 for the storage facility.

11 (18) STEWARDSHIP RESPONSIBILITY.—The
12 term “stewardship responsibility” means responsi-
13 bility for monitoring and remediation of certified
14 post-closure storage facilities in a State during the
15 stewardship period, as provided in section 504.

16 (19) STORAGE FACILITY.—The term “storage
17 facility” means a facility for long-term geologic stor-
18 age and sequestration of carbon dioxide, including a
19 facility for enhanced oil or gas recovery, as provided
20 by section 506(b)(1)(B).

21 (20) TRUST FUND.—The term “Trust Fund”
22 means the Carbon Storage Stewardship Trust Fund
23 that is established under section 507.

1 **SEC. 504. STEWARDSHIP RESPONSIBILITY.**

2 (a) AGENCY RESPONSIBLE FOR STEWARDSHIP.—A
3 State may accept stewardship responsibility for certified
4 post-closure storage facilities in that State in accordance
5 with regulations of the Secretary. If a State declines to
6 accept stewardship responsibility, then the Secretary shall
7 have stewardship responsibility for certified post-closure
8 storage facilities in that State. In accordance with such
9 rules as the Secretary may prescribe, if a State that has
10 accepted stewardship responsibility fails to carry out such
11 responsibility, the Secretary shall, after notice and oppor-
12 tunity for comment, assume such responsibility.

13 (b) ADMINISTRATION, MONITORING AND REMEDI-
14 ATION.—

15 (1) RESPONSIBILITIES.—Upon issuance of the
16 certificate of completion for a storage facility, the
17 stewardship agency shall be responsible for providing
18 all monitoring and remediation of the carbon dioxide
19 injected at that storage facility. The monitoring and
20 remediation shall be conducted in accordance with
21 standards prescribed by the Board under section
22 507(c)(1).

23 (2) REIMBURSEMENT OF AGENCY COSTS.—The
24 Board shall reimburse the stewardship agency for all
25 reasonable and verified costs that the stewardship
26 agency has incurred for program administration and

1 the performance of its stewardship responsibility, as
2 described in paragraph (1). The Board shall pay
3 such costs from the Trust Fund through the Pro-
4 gram and in accordance with a reimbursement con-
5 tract entered into under subsection (c).

6 (c) REIMBURSEMENT CONTRACTS.—

7 (1) IN GENERAL.—The Board shall offer each
8 agency that accepts stewardship responsibility for
9 certified post-closure storage facilities within a State
10 a contract under which the Board provides reim-
11 bursement for costs of administration, monitoring,
12 and remediation of such facilities during the stew-
13 ardsip period as determined under paragraph (2).
14 Section 1341 of title 31, United States Code shall
15 not apply to any such contract. The contract shall
16 be backed by the full faith and credit of the United
17 States.

18 (2) RULES.—The Board shall prescribe rules
19 for reimbursement of all reasonable costs of adminis-
20 tration, monitoring, and remediation incurred by
21 agencies that have stewardship responsibility for cer-
22 tified post-closure storage facilities.

23 **SEC. 505. RESPONSIBILITY FOR PAYMENT OF CLAIMS.**

24 (a) CLAIMS AGAINST THE TRUST FUND.—

1 (1) PUBLIC CLAIMS.—Upon issuance of the cer-
2 tificate of completion for a storage facility, all public
3 claims related to the carbon dioxide injected at that
4 certified post closure storage facility shall be filed
5 with the Board and paid from Trust Fund.

6 (2) ORPHAN STORAGE FACILITIES.—A steward-
7 ship agency having jurisdiction over a particular
8 storage facility may petition the Board for reim-
9 bursement from the Trust Fund of the monitoring
10 and remediation costs that may be incurred by such
11 stewardship agency consistent with the standards es-
12 tablished under section 507(c) if—

13 (A) the particular storage facility—

14 (i) has completed injection operations
15 at the storage facility;

16 (ii) has obtained all applicable permits
17 for the injection of carbon dioxide into the
18 storage facility and substantially complied
19 with the requirements of those permits
20 during the injection operations; and

21 (iii) has paid annual assessments into
22 the Trust Fund, as required under section
23 506(b), for a substantial majority of the
24 carbon dioxide injected into the storage fa-
25 cility; and

1 (iv) is unable to obtain a certificate of
2 completion from the regulatory authority;
3 and

4 (B) a United States bankruptcy court has
5 issued—

6 (i) a bankruptcy discharge that re-
7 leases the owners, operators, and any other
8 potentially responsible parties from the fi-
9 nancial liabilities related to the particular
10 storage facility; or

11 (ii) other determination that the own-
12 ers, operators, and any other potentially
13 responsible parties of the particular stor-
14 age are financially unable to fulfill condi-
15 tions and requirements necessary to obtain
16 a certificate of completion for the par-
17 ticular storage facility; and

18 (C) the Board determines that using the
19 Trust Fund to fund monitoring and remedi-
20 ation activities at the particular storage facility
21 is in the public interest.

22 (3) EXCLUSIVE BOARD JURISDICTION.—The
23 Board shall have exclusive jurisdiction to adjudicate
24 all public claims and petitions filed with Board

1 under paragraphs (1) and (2), as provided by section
2 509.

3 (b) CLAIMS AGAINST STEWARDSHIP AGENCIES.—

4 (1) CIVIL CLAIMS.—Subject to paragraph (2),
5 an agency that has stewardship responsibility for a
6 certified post-closure storage facility is not subject to
7 any civil claim as a result of assuming or carrying
8 out its stewardship responsibility under this title.

9 (2) FEDERAL AND STATE REQUIREMENTS.—An
10 agency that has stewardship responsibility for a cer-
11 tified post-closure storage facility shall be subject
12 to—

13 (A) all applicable Federal and State envi-
14 ronmental requirements that relate to the injec-
15 tion of carbon dioxide at that storage facility
16 during the stewardship period; and

17 (B) civil claims for injunctive relief for the
18 performance of—

19 (i) all applicable Federal and State
20 environmental requirements that relate
21 to—

22 (I) the ongoing monitoring,
23 measurement, and verification of car-
24 bon dioxide injected at that storage
25 facility; and

1 (II) maintaining the integrity of
2 the storage facility during the stew-
3 ardsHIP period; and

4 (ii) any requirement to provide reme-
5 diation at the storage facility during the
6 stewardship period that is—

7 (I) consistent with any applicable
8 Federal or State environmental re-
9 quirements; and

10 (II) necessary to remedy any
11 breach in the integrity of the storage
12 facility that is caused by the injection
13 of carbon dioxide into such facility.

14 (3) VENUE.—Civil claims brought for injunctive
15 relief under paragraph (2)(B) shall be filed in the
16 District Court of the United States in which the
17 stewardship agency is located.

18 (4) CONFLICTING REQUIREMENTS.—If a stand-
19 ard or requirement established by the Board differs
20 from any Federal or State environmental require-
21 ment, compliance with the Board standard or re-
22 quirement shall be deemed to satisfy the obligation
23 of a stewardship agency to comply with the cor-
24 responding State or Federal environmental require-
25 ment.

1 (c) CLAIMS AGAINST OPERATORS, PROPERTY OWN-
2 ERS, TRANSPORTERS, AND GENERATORS.—Upon issuance
3 of the certificate of completion for a storage facility, civil
4 claims related to the carbon dioxide injected at that cer-
5 tified post-closure storage facility may not be brought
6 against—

7 (1) the project operator of the facility, except if
8 the Board determines that there are insufficient
9 funds in the Trust Fund to pay such claims, as pro-
10 vided in subsection (b)(5)(E) of section 506;

11 (2) the owner of the facility;

12 (3) a holder of a real property interest in the
13 facility;

14 (4) any transmission pipeline that transported
15 carbon dioxide to the facility; or

16 (5) the generator of the carbon dioxide being
17 handled by either the pipeline or storage facility.

18 **SEC. 506. CARBON STORAGE STEWARDSHIP TRUST FUND.**

19 (a) ESTABLISHMENT OF TRUST FUND.—The Carbon
20 Storage Stewardship Trust Fund is hereby established in
21 the Treasury. The Trust Fund shall be administered by
22 the Board. Notwithstanding section 3302 of title 31,
23 United States Code, all assessments paid under subsection
24 (b) shall be deposited in the Trust Fund and shall be avail-

1 able without fiscal year limitation and without further ap-
2 propriation solely for the purpose of—

3 (1) covering the administrative costs of the
4 Board under this title; and

5 (2) making payments authorized by section
6 507.

7 (b) ASSESSMENTS.—

8 (1) PAYMENT BY OPERATOR.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), each project operator of a
11 storage facility shall pay an annual assessment
12 into the Trust Fund for the carbon dioxide in-
13 jected into a storage facility during a given cal-
14 endar year after the date of enactment of this
15 Act. The annual assessment shall be equal to
16 the product of—

17 (i) the number of tons of carbon diox-
18 ide that are injected into the storage facil-
19 ity for a particular year during the oper-
20 ational phase of the facility; and

21 (ii) the assessment amount, expressed
22 on a dollar-per-ton of carbon dioxide in-
23 jected, that the Board has established for
24 the storage facility under paragraph (2).

1 (B) ENHANCED OIL OR GAS RECOVERY.—

2 In the case of the injection of carbon dioxide for
3 the purpose of enhanced oil or gas recovery, the
4 requirement to pay an annual assessment into
5 the Trust Fund under subparagraph (A) shall
6 apply—

7 (i) solely to the net quantity of carbon
8 dioxide injected into a storage facility for
9 the purpose of the long-term geological
10 storage of the carbon dioxide in order to
11 meet a greenhouse gas reduction compli-
12 ance obligation under a Federal or State
13 regulatory program; and

14 (ii) only to the extent that the project
15 operator has relied upon geological storage
16 of the carbon dioxide for meeting a green-
17 house gas reduction compliance obligation
18 under a Federal or State regulatory pro-
19 gram.

20 (C) SPECIAL RULE.—

21 (i) EXTENDED PAYMENT SCHED-
22 ULE.—Except as provided by clause (ii),
23 the Board may impose an assessment
24 under subparagraph (A) upon any storage
25 facility existing on the date of enactment

1 of this Act for amounts of carbon dioxide
2 injected prior to the establishment of the
3 Trust Fund. The Board shall establish a
4 reasonable schedule for the payment of the
5 assessment authorized under the previous
6 sentence, which shall not exceed 10 years.

7 (ii) DEMONSTRATION PROJECTS.—
8 The Board shall not impose an assessment
9 under subparagraph (A) in the case of a
10 demonstration project that—

11 (I) injects carbon dioxide in
12 amounts that are less than 1,000,000
13 tons per year;

14 (II) has an injection period of 5
15 years or less; and

16 (III) poses a de minimis risk to
17 health, safety, or the environment
18 during the stewardship period.

19 (iii) TRUST FUND COVERAGE.—In the
20 case of a project that is exempted from the
21 assessment under clause (ii) of this sub-
22 paragraph, the stewardship agency shall—

23 (I) perform any monitoring and
24 remediation that may be necessary

1 after the proper closure of the storage
2 facility;

3 (II) receive reimbursement for
4 the reasonable costs for performing
5 such monitoring and remediation ac-
6 tivities from the Trust Fund by the
7 Board; and

8 (III) be subject to civil claims for
9 injunctive relief to perform appro-
10 priate monitoring and remediation, as
11 provided under section 505(b)(2)(B).

12 (2) ASSESSMENT AMOUNT.—After providing op-
13 portunity for public notice and comment and after
14 taking into account the information, recommenda-
15 tions and guidance that the technical advisory com-
16 mittee may provide under section 508(g), the Board
17 shall determine by rule the assessment amount that
18 applies to each ton of carbon dioxide injected into a
19 storage facility in accordance with method prescribed
20 in paragraph (3).

21 (3) METHOD FOR CALCULATING ASSESSMENT
22 AMOUNT.—The Board shall establish by rule a
23 method for calculating the assessment amount
24 that—

1 (A) establishes a specific dollar-per-ton as-
2 sessment for the injection of carbon dioxide into
3 each type or class of storage facilities that the
4 Board has identified under paragraph (4)(A);

5 (B) reflects the degree of risk that sub-
6 stantial remediation costs and public claims
7 might be incurred for each type or class of stor-
8 age facilities for which the Board has developed
9 a risk profile under paragraph (4)(B);

10 (C) accounts for the cumulative quantities
11 of carbon dioxide that project operators are ex-
12 pected to inject into storage facilities at appro-
13 priate milestones over the life of the Program;

14 (D) calculates the net present value of cu-
15 mulative payments that the Board expects to
16 make under section 507 at appropriate mile-
17 stones over the life of the Program for—

18 (i) reasonable future administrative
19 costs that the Board expects to incur
20 under the Act;

21 (ii) reimbursement to stewardship
22 agencies for the reasonable future costs
23 that such agencies are likely to incur for
24 program administration, monitoring, reme-
25 diation and the performance of other stew-

1 ardship responsibilities under section 504;
2 and

3 (iii) satisfaction of public claims on
4 which the Board expects to make payment
5 based on the reasonably anticipated risks
6 of ultimate recovery against the Program
7 for such costs under section 505; and

8 (E) calculates the net present value of pay-
9 ments that the Board expects to be deposited
10 into the Trust Fund under this subsection at
11 appropriate milestones over the life of the Pro-
12 gram;

13 (F) reflects the best available engineering,
14 geological, and scientific information, including
15 the information, recommendations and guidance
16 that the technical advisory committee may pro-
17 vide to the Board under section 508(g).

18 (4) TYPES AND CLASSES OF STORAGE FACILI-
19 TIES.—

20 (A) IDENTIFICATION AND CATEGORIZA-
21 TION.—The Board shall identify those geologi-
22 cal formations that may potentially be used as
23 a storage facility and categorize each identified
24 formation into an appropriate type or class
25 based on—

1 (i) the type of formation, including
2 depleted oil and gas formations, deep
3 unmineable coal seams, and deep saline
4 aquifers;

5 (ii) depth of injection of carbon diox-
6 ide into the formation;

7 (iii) proximity of the formation to
8 drinking water sources, human settle-
9 ments, or ecologically sensitive areas;

10 (iv) proximity of the formation to seis-
11 mically active geological faults;

12 (v) other factors that may affect the
13 probability that the Board may incur sub-
14 stantial costs for remediation and public
15 claims under section 508(g).

16 (B) RISK PROFILES.—For each type or
17 class of geological formation identified under
18 subparagraph (A), the Board shall prepare a
19 profile of the reasonably foreseeable risks that
20 could result by the injection of carbon dioxide
21 into such a formation. In developing such risk
22 profiles, the Board shall rely on the best avail-
23 able scientific information, including the infor-
24 mation, recommendations and guidance that the

1 technical advisory committee may provide to the
2 Board under section 508(g).

3 (5) ADJUSTMENT OF ASSESSMENT AMOUNT.—

4 (A) IN GENERAL.—The Board shall pre-
5 scribe rules for adjusting the assessment
6 amount established under paragraph (2) if the
7 Board determines that the Trust Fund is un-
8 derfunded or overfunded to cover the payments
9 expected under section 507. The Board shall
10 make its determination on the sufficiency of
11 such funds in the Trust Fund based on actu-
12 arial studies to be conducted at least every 5
13 years, beginning 10 years after the date of en-
14 actment of this Act, and any change in the as-
15 sessment amount shall be made in accordance
16 with the applicable provisions of this subsection
17 and after opportunity for public notice and
18 comment.

19 (B) LIMITS ON SIZE OF TRUST FUND.—

20 (i) IN GENERAL.—The Board shall es-
21 tablish by rule a minimum and maximum
22 balance for the Trust Fund and adjust the
23 amount of the assessment amount to en-
24 sure that the amounts in Trust Fund re-
25 main within the minimum and maximum

1 fund levels established under this subpara-
2 graph. In setting the minimum and max-
3 imum fund levels, the Board shall—

4 (I) apply the criteria prescribed
5 in paragraph (3) for calculating the
6 assessment amount; and

7 (II) take into account the infor-
8 mation, recommendations and guid-
9 ance that the technical advisory com-
10 mittee may provide under section
11 508(g).

12 (ii) REVIEW AND REVISION.—The
13 Board shall review from time to time and
14 revise as necessary and appropriate the
15 minimum and maximum levels established
16 for the Trust Fund under clause (i) of this
17 subparagraph. The Board may make any
18 revision to the minimum and maximum
19 levels only in accordance with applicable
20 provisions of this subsection, including the
21 requirements of clause (i) of this subpara-
22 graph.

23 (C) REBATES IF TRUST FUND IS OVER-
24 FUNDED.—The Board may provide rebates to
25 project operators that have made payments into

1 the Trust Fund under subsection (b) if the
2 Board determines by rule that—

3 (i) the Trust Fund is overfunded
4 under subparagraph (A);

5 (ii) a substantial reduction in future
6 payments into the Trust Fund would be
7 necessary to ensure that the amounts in
8 the Trust Fund do not exceed maximum
9 balance levels established under subpara-
10 graph (B); and

11 (iii) a rebate of past payments, com-
12 bined with a downward adjustment of fu-
13 ture payments, into the Trust Fund is ap-
14 propriate to ensure a fair and equitable as-
15 sessment on all project operators contrib-
16 uting to the Trust Fund.

17 (D) INCREASES IN ASSESSMENT
18 AMOUNT.—The Board may increase the level of
19 the assessment amount for carbon dioxide in-
20 jected into a storage facility if the Board deter-
21 mines by rule that the Trust Fund is under-
22 funded under subparagraph (A). Any such in-
23 crease in the assessment amount shall only
24 apply prospectively to annual assessments for

1 carbon dioxide injected during the operation of
2 a storage facility under paragraph (2).

3 (E) CLAIMS IN EXCESS OF TRUST
4 FUND.—The project operator shall be respon-
5 sible to pay claims under section 505 that are
6 related to, or arising from, the injection and se-
7 questration of carbon dioxide at its certified
8 post-closure storage facility if the Board deter-
9 mines that insufficient funds are available to
10 pay such claims even after the application of a
11 prospective increase of the assessment amount,
12 as authorized by subparagraph (D).

13 (c) INVESTMENT.—At the request of the Board, the
14 Secretary of the Treasury may invest any part of the
15 amounts in the Trust Fund in interest-bearing securities
16 of the United States Government. The interest on, and
17 the proceeds from the sale or redemption of, the securities
18 shall be deposited in the Trust Fund.

19 (d) REPAYABLE ADVANCES.—If amounts in the
20 Trust Fund are insufficient to cover current obligations
21 of the Board under this Act, there are authorized to be
22 appropriated to the Trust Fund as interest-bearing repay-
23 able advances, such sums as may be necessary to carry
24 out the purposes of such Trust Fund. The terms and con-

1 ditions of such advances shall be as specified in appropria-
2 tion Acts.

3 **SEC. 507. PAYMENTS FROM THE TRUST FUND.**

4 (a) ESTABLISHMENT.—The Board shall establish and
5 administer the National Carbon Storage Stewardship Pro-
6 gram to—

7 (1) reimburse agencies (or the Secretary as pro-
8 vided under section 504) for the costs incurred for
9 program administration and in performing their
10 stewardship responsibilities with respect to certified
11 post-closure storage facilities, as provided in con-
12 tracts executed under section 504(c); and

13 (2) make payments to satisfy—

14 (A) public claims made with respect to cer-
15 tified post-closure storage facilities, as author-
16 ized by section 505(a)(1); and

17 (B) petitions to cover monitoring and re-
18 mediation costs incurred at storage facilities, as
19 authorized by section 505(a)(2).

20 The payment of these expenditures by the Board
21 shall be funded from the Trust Fund in accordance
22 with provisions of this title.

23 (b) PAYMENT SCHEDULES FOR PUBLIC CLAIMS.—

24 The Board shall by rule prescribe payment schedules for
25 determining the nature and amount of compensation that

1 the Board will pay from the Trust Fund for public claims
2 under section 505(a)(1). The payment schedules shall re-
3 flect the best available engineering, geological, and sci-
4 entific information, including the information, rec-
5 ommendations and guidance that the technical advisory
6 committee may provide to the Board under section 508(g).

7 (c) MONITORING AND REMEDIATION.—

8 (1) STANDARDS.—The Board shall prescribe
9 standards for determining whether and to what ex-
10 tent monitoring and remediation will be required for
11 carbon dioxide injected at a certified post-closure
12 storage facility. The standards shall—

13 (A) be based on the applicable Federal and
14 State environmental requirements for the moni-
15 toring and remediation of carbon dioxide in-
16 jected at a certified post closure storage facility;
17 and

18 (B) reflect any other monitoring or remedi-
19 ation requirements that the Board determines
20 are necessary to protect the health, safety, and
21 the environment during the stewardship period.

22 (2) REIMBURSEMENT.—

23 (A) IN GENERAL.—The Board shall reim-
24 burse the stewardship agency from the Trust
25 Fund for the costs that it has incurred for the

1 monitoring and remediation in accordance with
2 the standards established under paragraph (1)
3 and contracts entered into under section 504.

4 (B) CONTRACTUAL DISPUTES.—The stew-
5 ards-ship agency or the Board may bring an ac-
6 tion in the United States District Court to ob-
7 tain relief on disputes relating to provisions of
8 reimbursement contracts executed under section
9 504(c).

10 (d) LIMITATION ON PAYMENT OF CLAIMS.—The
11 Board shall not pay claims otherwise authorized under
12 this section if the claim for reimbursement or compensa-
13 tion arose from conduct of the project operator that con-
14 stitutes reckless or intentional misconduct.

15 (e) PRIVATE INSURERS.—The Board may contract
16 with private insurers to provide claim adjustment services
17 for public claims. In addition, to the extent the Board de-
18 termines that insurance from private sources to cover rea-
19 sonably anticipated costs of public claims and remediation
20 is available for certified post-closure storage facilities at
21 reasonable cost and on reasonable terms, the Board may
22 purchase such insurance from private sources.

1 **SEC. 508. CARBON STORAGE STEWARDSHIP BOARD.**

2 (a) ESTABLISHMENT.—There is hereby established
3 within the Department of Energy an independent agency
4 to be know as the Carbon Storage Stewardship Board.

5 (b) PURPOSE.—The purpose of the Board is to ad-
6 vance, in the most efficient and effective manner, the wide-
7 spread deployment of carbon capture and storage tech-
8 nologies by providing for the long-term stewardship of
9 closed storage sites in a manner that achieves the objec-
10 tives and requirements of this title.

11 (c) ORGANIZATION.—

12 (1) MEMBERSHIP.—The Board shall consist of
13 7 members, of which—

14 (A) 4 shall be appointed by the President
15 by and with the advice and consent of the Sen-
16 ate; and

17 (B) 3 shall be full-time Federal employees
18 designated by the President in accordance with
19 paragraph (6).

20 (2) QUALIFICATIONS FOR MEMBERSHIP.—Each
21 member of the Board shall—

22 (A) be a citizen of the United States;

23 (B) have demonstrated knowledge and ex-
24 pertise in the fields relating to—

25 (i) carbon capture technologies;

- 1 (ii) geological storage of carbon diox-
2 ide in underground formations;
3 (iii) electric power generation; or
4 (iv) qualitative and quantitative eval-
5 uation of the risk posed to health, safety,
6 or the environment (including drinking
7 water supplies) by the injection of carbon
8 dioxide into underground formations; and

9 (C) in the case of members that are full-
10 time Federal employees designated under sub-
11 paragraph (c)(1)(B), be serving in a technical
12 capacity for the Federal agency on one or more
13 of the areas enumerated in subparagraph (B).

14 (3) APPOINTMENT AND DESIGNATION.—Not
15 later than 180 days after the date of enactment of
16 this Act, the President shall appoint or designate (as
17 the case may be) the members to the Board in ac-
18 cordance with the requirements of this subsection.

19 (4) TERM OF SERVICE.—

20 (A) IN GENERAL.—Except as provided
21 under subparagraph (B), each non-Federal
22 member of the Board shall serve for a term of
23 12 years and may be removed by the President
24 only for neglect of duty, malfeasance, or other
25 just cause for dismissal. Members of the Board

1 who are full-time Federal employees shall serve
2 at the pleasure of the President.

3 (B) FIRST APPOINTMENTS.—In the case of
4 the non-Federal members that the President
5 first appoints to the Board,

6 (i) the Chairperson shall serve a term
7 of 6 years;

8 (ii) the 3 remaining non-Federal
9 members to the Board (other than the
10 Chairperson) shall serve for terms of 8, 10,
11 and 12 years, as designated by the Presi-
12 dent at the time of appointment.

13 (C) SERVICE UNTIL NEW APPOINTMENT.—
14 The term of a non-Federal Board member shall
15 continue after the expiration of the term of the
16 member until the date on which a replacement
17 is appointed by the President and confirmed by
18 the Senate.

19 (D) VACANCY.—Any non-Federal Board
20 member appointed to fill a vacancy in an unex-
21 pired term shall serve only for the remainder of
22 that term.

23 (E) REAPPOINTMENT.—An individual who
24 has served as a Board member for a term of

1 more than 8 years shall not be eligible for re-
2 appointment.

3 (5) CHAIRPERSON.—

4 (A) DESIGNATION.—The President shall
5 designate a Chairperson from the non-Federal
6 Board members that are representatives from
7 industry under paragraph (6)(E).

8 (B) TERM OF SERVICE.—The Chairperson
9 of the Board shall serve for a term of 6 years
10 and may be reappointed for a second-year term.

11 (6) COMPOSITION OF BOARD.—The Board shall
12 consist of—

13 (A) 1 employee from the Department of
14 Energy;

15 (B) 1 employee from Environmental Pro-
16 tection Agency;

17 (C) 1 employee from the Department of
18 Interior;

19 (D) 1 representative from a public utility
20 commission or other state governmental agency;
21 and

22 (E) 3 representatives from industry, in-
23 cluding 2 individuals who have substantial expe-
24 rience in the electric power sector.

25 (7) LEVEL OF SERVICE.—

1 (A) FULL-TIME SERVICE.—The Chair-
2 person of the Board shall serve on a full-time
3 basis and may not engage in any other busi-
4 ness, vocation, or employment while serving in
5 the capacity of Chairperson.

6 (B) PART-TIME SERVICE.—Members of the
7 Board who are not serving as the Chair-
8 person—

9 (i) shall serve on part-time basis, as
10 needed to perform the functions and re-
11 sponsibilities of the Board;

12 (ii) may engage in other business, vo-
13 cation, or employment so long as there is
14 no direct conflict of interest with their offi-
15 cial work responsibilities of Board; and

16 (iii) in the case of each individual who
17 is employee of a Federal agency, may be
18 assigned to serve on the Board without re-
19 imbursement to the Federal agency.

20 (8) COMPENSATION.—Non-Federal members of
21 the Board shall be compensated at the rate pre-
22 scribed for Level IV of the Executive Schedule.

23 (d) DUTIES AND RESPONSIBILITIES OF THE CHAIR-
24 PERSON.—The Chairperson shall be responsible on behalf

1 of the Board for the executive and administrative oper-
2 ation of the Board.

3 (e) FUNCTIONS.—The Board shall—

4 (1) prescribe the form of cost reimbursement
5 agreements under section 504(c), offer such agree-
6 ments to agencies that have stewardship responsi-
7 bility, and execute such agreements on behalf of the
8 United States;

9 (2) evaluate the adequacy of the Trust Fund
10 and adjust the level of the assessment as authorized
11 under section 506(b);

12 (3) prescribe payment schedules for public
13 claims under section 507(b) and monitoring and re-
14 mediation standards under section 507(c)(1);

15 (4) determine, as provided in section 509, the
16 extent to which—

17 (A) public claims filed with the Board are
18 payable under section 505(a)(1) in accordance
19 with applicable payment schedules; and

20 (B) petitions to cover monitoring and re-
21 mediation costs incurred at storage facilities are
22 payable under section 505(a)(2).

23 (5) determine whether monitoring and remedi-
24 ation is required at a certified post-closure storage
25 facility prescribed under section 507(c);

1 (6) make payments under cost reimbursement
2 agreements (including payments for monitoring and
3 remediation costs) under section 504(c); and

4 (7) exercise such other authorities as may be
5 necessary or appropriate to carry out its functions
6 under the preceding paragraphs of this subsection or
7 other provisions of this title, including assignment of
8 employees from other Federal agencies, employment
9 of personnel, and entering into contracts.

10 (f) POWERS.—The Board has the authority to—

11 (1) prescribe, by rule or order, such require-
12 ments for monitoring certified post-closure storage
13 facilities and for making such inspections and re-
14 ports as may be necessary or appropriate to carry
15 out this title;

16 (2) enter onto the premises or property of any
17 storage facility to carry out this title;

18 (3) issue an order requiring a person to comply
19 with order, rule or requirement that the Board has
20 established under the Act;

21 (4) commence a civil action in the United
22 States District Court to recover from any project op-
23 erator any fees or assessments not paid when due,
24 after notice and an opportunity to cure any defi-
25 ciency within 30 days of such notice;

1 (5) bring an action against any person in the
2 United States District Court to enforce the provi-
3 sions of this title or rules or orders thereunder, and
4 to obtain appropriate injunctive or other relief; and

5 (6) seek civil or criminal penalties for violations
6 of provisions of this title, as provided under sub-
7 section (h).

8 (g) TECHNICAL ADVISORY COMMITTEE.—

9 (1) ESTABLISHMENT.—The Board shall estab-
10 lish an independent technical advisory committee
11 composed of 7 members, each of whom has dem-
12 onstrated knowledge and expertise with respect to
13 engineering, geological, or environmental matters re-
14 lated to the storage of carbon dioxide in suitable un-
15 derground formations.

16 (2) FUNCTION.—The committee established
17 under paragraph (1) shall provide information, rec-
18 ommendations and guidance to the Board on tech-
19 nical matters related to—

20 (A) the amount and duration of the assess-
21 ment that a project operator of a storage facil-
22 ity should pay under section 506(b) to cover fu-
23 ture anticipated payments from the Trust Fund
24 for the purposes described under section 507;

1 (B) the profile of reasonably foreseeable
2 risks that the Board must develop for each type
3 or class of geological formation under section
4 506(b)(4)(B);

5 (C) payment schedules for determining the
6 nature and amount of compensation that the
7 Board will pay from the Trust Fund for public
8 claims, as provided under section 507(b);

9 (D) standards for determining whether and
10 to the extent that monitoring and remediation
11 will be required for carbon dioxide injected at a
12 certified post-closure storage facility, as pro-
13 vided under section 507(c); and

14 (E) other determinations or actions that
15 the Board must perform to carry out its re-
16 sponsibilities and duties under this title.

17 (3) ADDITIONAL RESEARCH.—The committee
18 established under paragraph (1) shall advise the
19 Board as to additional research and technical stud-
20 ies that may be necessary to perform the functions
21 described under paragraph (2).

22 (h) PENALTIES.—

23 (1) CIVIL PENALTIES.—Any person that know-
24 ingly violates any provision of this title or any rule

1 or order thereunder shall be subject to a civil pen-
2 alty of \$10,000 per violation.

3 (2) CRIMINAL PENALTIES.—Any person that
4 knowingly and willfully violates any provision of this
5 title or any rule or order thereunder shall be subject
6 to a fine of \$50,000 or imprisonment for a term of
7 2 years, or both.

8 (i) PUBLIC COMMENT AND JUDICIAL REVIEW.—In
9 prescribing rules of general applicability under this title,
10 the Secretary and the Board shall provide an opportunity
11 for public notice and comment. Those rules shall be sub-
12 ject to review by the United States Courts of Appeal in
13 accordance with chapter 158 of title 28, United States
14 Code. All other agency actions under this title shall be re-
15 viewed in accordance with chapter 7 of title 5, United
16 States Code.

17 **SEC. 509. ADJUDICATION OF PUBLIC CLAIMS.**

18 (a) PUBLIC CLAIMS OFFICE.—

19 (1) ESTABLISHMENT.—There is established
20 within the Department of Energy an Office of Public
21 Claims, which shall be composed of administrative
22 law judges who are responsible for adjudicating pub-
23 lic claims filed with the Board under section 505(a).

24 (2) APPOINTMENT.—After the first storage fa-
25 cility receives a certificate of completion from the

1 appropriate regulatory authority, the Chairperson of
2 the Board shall begin to appoint as many adminis-
3 trative law judges as are necessary to adjudicate
4 public claims pending before the Board and may se-
5 lect for appointment qualified administrative law
6 judges who are contracted from the Department of
7 Energy or other Federal agencies.

8 (3) INDEPENDENCE FROM BOARD.—The ad-
9 ministrative law judges within the Office of Public
10 Claims shall establish and implement procedures to
11 ensure the separation and independence of the Office
12 of Public Claims from the Board.

13 (b) ADJUDICATORY PROCEDURES.—In adjudicating
14 each public claim or petition filed with the Board under
15 section 505(a), the administrative law judge shall—

16 (1) in the case of public claims made with re-
17 spect to certified post-closure storage facilities under
18 section 505(a)(1), apply the appropriate payment
19 schedules for compensation that the Board has es-
20 tablished under section 507(b);

21 (2) in the case of petitions for the reimburse-
22 ment of monitoring and remediation costs incurred
23 at storage facilities under section 505(a)(2), deter-
24 mine the reasonable costs for performing the appro-

1 appropriate standards established for monitoring and re-
2 mediation under section 507(c); and

3 (3) issue a decision that is determined on the
4 record after opportunity for an agency hearing in ac-
5 cordance with sections 554, 555, and 556 of title 5,
6 United States Code.

7 (c) APPEALS.—An aggrieved person or the Board
8 may file an appeal of a decision issued under subsection
9 (b) to the United States Court of Federal Claims. The
10 appeal of such a decision shall be—

11 (1) filed within 60 days after the date that the
12 decision was issued by the administrative law judge;
13 and

14 (2) reviewed in accordance with chapter 7 of
15 title 5, United States Code.

16 (d) FINAL ORDERS.—

17 (1) IN GENERAL.—A decision issued under sub-
18 section (b) shall become a final order of the Board
19 60 days after the issuance of the decision unless
20 within such 60-day period an aggrieved person or
21 the Board files an appeal of the decision under sub-
22 section (c).

23 (2) JUDICIAL REVIEW.—A decision for which
24 an appeal is not filed within the 60-day period pro-
25 vided under subsection (c) becomes a final order

1 that is not subject to judicial review by any court or
2 tribunal.

3 (e) BOARD ACTION.—The Board shall, as expedi-
4 tiously as practicable, make payment to each claimant and
5 perform other actions that may be required by a final
6 order issued under subsection (d).

7 **SEC. 510. FIRST MOVER PROJECTS.**

8 (a) PROJECT SELECTION.—

9 (1) IN GENERAL.—The Secretary shall competi-
10 tively select 10 carbon capture and geological se-
11 questration projects as first mover projects in ac-
12 cordance with the criteria prescribed in paragraph
13 (2). Each first mover project selected under this
14 paragraph shall be indemnified from liabilities aris-
15 ing from the injection of carbon dioxide into the
16 storage facility in accordance with an agreement exe-
17 cuted under subsection (b).

18 (2) ELIGIBILITY CRITERIA.—A carbon capture
19 and geological sequestration project shall be eligible
20 for selection as a first mover project under para-
21 graph (1) if the project—

22 (A) demonstrates the commercial applica-
23 tion of an integrated system for the capture, in-
24 jection, monitoring, and long term geological
25 storage of carbon dioxide;

1 (B) injects at least 1,000,000 tons of car-
2 bon dioxide each year into a proposed geological
3 storage site that is capable of long-term storage
4 of the injected carbon dioxide, as provided
5 under paragraph (3);

6 (C) possesses the land or interests in land
7 necessary for the injection and storage of the
8 carbon dioxide at the geological storage site;

9 (D) obtains all necessary permits for the
10 injection of carbon dioxide into a suitable un-
11 derground formation and complies with the con-
12 ditions of any necessary permits that protect
13 health, environment and safety; and

14 (E) commits to maintain the financial pro-
15 tection for remediation and civil claims, as de-
16 scribed in subsection (b)(2).

17 (3) PHASED DEVELOPMENT OF PROJECT.—A
18 project may satisfy the annual carbon dioxide injec-
19 tion requirement of paragraph (2)(B) through a
20 phased development, so long as—

21 (A) the Secretary establishes a legally
22 binding schedule for the phase-in of the project;
23 and

1 (B) such schedule requires the project to
2 achieve an annual injection level of 1,000,000
3 tons by no later than January 1, 2020.

4 (b) INDEMNIFICATION AGREEMENTS.—

5 (1) IN GENERAL.—Notwithstanding section
6 1341 of title 31, United States Code, but subject to
7 limitations in appropriation Acts, the Secretary shall
8 execute indemnification agreements for the 10 first
9 mover projects that the Secretary has selected under
10 subsection (a). Each agreement executed under this
11 paragraph shall indemnify owners and operators of
12 the first mover project for all or part of the costs
13 incurred to satisfy remediation and civil claims
14 (whenever made) that arise from injection of carbon
15 dioxide into a storage facility, as determined by the
16 Secretary in accordance with the requirements of
17 this section.

18 (2) SCOPE OF INDEMNIFICATION.—The owners
19 and operators of a first mover project shall maintain
20 financial protection in a form and in an amount ac-
21 ceptable to the Secretary. The indemnification au-
22 thorized under paragraph (1) shall apply to the costs
23 incurred for remediation and civil claims that are in
24 excess of the amount of liability covered by financial

1 protection maintained for the project under para-
2 graph (1).

3 (3) CONDITIONS AND REQUIREMENTS.—The
4 Secretary may impose such conditions on indem-
5 nification agreements executed under paragraph (1)
6 as may be necessary or appropriate to protect the fi-
7 nancial interest of the United States, including a re-
8 quirement to limit the indemnification provided to
9 each first mover project under this section during
10 the stewardship period to the extent that the Sec-
11 retary determines that potential long-term liabilities
12 can be adequately addressed through the coverage
13 provided by the Trust Fund under other provisions
14 of this title.

15 (c) CONSOLIDATION OF ENVIRONMENTAL RE-
16 VIEWS.—In performing environmental reviews that may
17 apply to an indemnification agreement for a particular
18 first mover project under subsection (b), the Secretary
19 shall rely on prior environmental reviews that were per-
20 formed to assess other major Federal actions relating to
21 the development or operation of that first mover project
22 under 102 of the National Environmental Policy Act of
23 1969 (42 U.S.C. 4332).

1 **SEC. 511. RELATIONSHIP TO OTHER LAW.**

2 (a) PRIOR TO STEWARDSHIP PERIOD.—This title
3 does not affect the application of any Federal or State
4 law to any storage facility for which a regulatory authority
5 has not issued certificate of completion.

6 (b) DURING THE STEWARDSHIP PERIOD.—This title
7 does not affect the application to the Trust Fund, the
8 Board or any stewardship agency of any Federal or State
9 environmental law with respect to the injection of carbon
10 dioxide at any certified post-closure facility.

11 (c) STATE STEWARDSHIP LAWS.—This title does not
12 affect the application of any State law related to geologic
13 sequestration trust funds that may apply to a storage fa-
14 cility during the operational or post-injection phase prior
15 to the stewardship period.

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